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DECLARATION OF SUPPLEMENTAL  
COVENANTS, CONDITIONS AND RESTRICTIONS OF  
CYPRESS SPRINGS ESTATES, PHASE TWO, SECTION ONE,  
A SUBDIVISION IN KERR COUNTY, TEXAS

FILED BY: KERR COUNTY  
ABSTRACT & TITLE CO.

75-5-1

**SUPPLEMENTAL DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS OF  
CYPRESS SPRINGS ESTATES, PHASE TWO, SECTION ONE,  
A SUBDIVISION OF KERR COUNTY, TEXAS**

THIS DECLARATION is made on the date hereinafter set forth by Cypress Springs Estates, Ltd., a Texas Limited Partnership, hereinafter referred to as "Declarant";

**W I T N E S S E T H:**

WHEREAS, Declarant is the owner of certain property in Kerr County, Texas, that has been platted and subdivided into a subdivision known as CYPRESS SPRINGS ESTATES, Phase Two, Section One, according to the plat thereof recorded in Volume 7, Page 172-173, of the Plat Records of Kerr County, Texas.

Declarant desires to develop certain land, being all of CYPRESS SPRINGS ESTATES, Phase Two, Section One, save and except the COMMON AREAS and COMMON AREA ROADWAYS as a residential subdivision and subject it to this declaration and to provide and adopt a uniform plan of development, including assessments, conditions, covenants, easements, reservations, and restrictions designed to govern, control, and preserve the values and amenities of this land for the development, improvement, sale, use, and enjoyment of the Property as a residential subdivision for the benefit of this land and each owner of any part of this land. The land subject to this Declaration is referred to as the "Property." Declarant further desires to annex the Property described herein to the subdivision known as CYPRESS SPRINGS ESTATES, Phase One, a subdivision in Kerr County, Texas, as shown on a plat of said subdivision filed for record in Volume 7, Page 12 of the Plat Records of Kerr County, Texas, pursuant to the provisions of Article XI, Section 8(b) of the Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ESTATES, Phase One, as recorded in Volume 1006, Page 53 of the Real Property Records of Kerr County, Texas.

The Property shall include the following Lots and Common Areas:

LOTS:

Lots 48-92, CYPRESS SPRINGS ESTATES, Phase Two, Section One, a subdivision containing 148.68 acres, more or less, out of original patent surveys in Kerr County, Texas, as follows: Survey No. 678 of the W.S. Fessenden Survey, Abstract No. 147, 1.01 acres; Survey No. 679 of the James Watson Survey, Abstract No. 369, 106.11 acres; Survey No. 1351 of the W.M. Watson Survey, Abstract No. 718, 6.73 acres; and Survey No. 1575 of the G.C. and S.F. Ry. Co. Survey, Abstract No. 1083, 112.42 acres;

COMMON AREAS:

COMMON AREAS:

Being a 1.10 acre tract and a 4.24 acres tract located on Springlakes Parkway, CYPRESS SPRINGS ESTATES, Phase Two, Section One, in Kerr County, Texas.

COMMON AREA ROADWAYS:

Being all roadways in CYPRESS SPRINGS ESTATES, Phase Two, Section One, in Kerr County, Texas.

All Common Areas subject to this Declaration are, however, specifically excepted from Article IX, Restrictions of Use and Article V, Covenant for Maintenance Assessment.

It has been deemed desirable, for the efficient preservation of values and amenities in the Property, to create an Association to which shall be delegated and assigned the powers of administering and enforcing the provisions of this Declaration including levying, collecting, and disbursing the assessments.

To exercise these functions, the CYPRESS SPRINGS ESTATES PROPERTY OWNERS ASSOCIATION, Inc., (hereinafter referred to as the "Association") a non-profit corporation created under the laws of the State of Texas, has been incorporated. The directors of the Association established By-laws by which the Association shall be governed.

Declarant declares that the Property shall be developed, improved, sold, used, and enjoyed in accordance with and subject to the following plan of development, including the assessments, conditions, covenants, easements, reservations, and restrictions of this Declaration, all of which are adopted for and placed upon the Property; shall run with the Property and be binding on all parties who now or hereafter have or claim any right, title, or interest in the Property or any part of the Property, and on the heirs, executors, administrators, successors, and assigns of such parties, regardless of the source of or the manner in which any such right, title, or interest is or may be acquired and shall inure to the benefit of each owner of any part of the Property. Declarant further declares that the Property is annexed as an addition to CYPRESS SPRINGS ESTATES Phase One, as shown on a plat of said subdivision filed for record in Volume 7, Page 12 of the Plat Records of Kerr County, Texas. Declarant further declares that all of the provisions of the Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ESTATES, Phase One, as recorded in Volume 1006, Page 53 of the Real Property Records of Kerr County, Texas, and the amendments to such declarations recorded in Volume, 150, Page 48, and Volume 1068, Page 146 of the Real Property Records of Kerr County, Texas, shall apply to the Property subject to this Declaration with the same force and effect as if said lands were originally included in Phase One, as specifically modified herein.

## ARTICLE I DEFINITIONS

Section 1. "Architectural Control Committee" (ACC or "Committee") shall mean and refer to the Committee created in the Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ESTATES, Phase One, as recorded in Volume 1006, Page 53 of the Real Property Records of Kerr County, Texas, subject to the provisions herein, by Declarant.

Section 2. "Association" shall mean and refer to Cypress Springs Estates Property Owners Association, Inc., a non-profit corporation incorporated under the laws of the State of Texas, and its successors and assigns as described in the Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ESTATES, Phase One, as recorded in Volume 1006, Page 53 of the Real Property Records of Kerr County, Texas.

Section 3. "Board of Directors" and "Board" shall mean and refer to the duly elected Board of Directors of the Cypress Springs Estates Property Owners Association, Inc., the election and procedures of which shall be as set forth in the Articles of Incorporation and By-Laws of the Association.

Section 4. "Builder" shall mean and refer to a department of Declarant or any other entity to which Declarant conveys or transfers lots within the Subdivision for the purpose of constructing homes or other permitted structures thereon.

Section 5. "Committee" see "Architectural Control Committee."

Section 6. "Common Areas" and Common Facilities shall mean and refer to all real property leased, owned, or maintained by the Association for use and benefit of the Members of the Association. The Common Area to be conveyed to the Association shall include the COMMON AREAS and COMMON AREA ROADWAYS, provided, however, Declarant reserves the right to further restrict the permitted improvements and uses of said areas beyond the restrictions on use set forth herein. Ownership of the Common Area will be transferred to the Association, free of lien, by Declarant prior to the sale of the last Lot in the Subdivision, provided, however, that Declarant reserves the right to use the Common Areas for Declarant, its successors or assigns, or Builders for model homes display and sales offices during the Development Period, during construction or until all new homes on the Property and/or annexed areas have been sold. Nothing herein shall be construed as requiring Declarant to construct improvements upon the common facilities.

Section 7. "Common Maintenance Area" may mean and refer to the Common Areas and all, if any, entrance monuments, perimeter walls, drainage facilities, trails, playground, and detention ponds, esplanade and right-of-way landscaping and other areas deemed appropriate by the Board of Directors of the Association to be maintained by the Association for the preservation, protection, and enhancement of the property values of the Subdivision and/or the general health, safety, welfare or benefit of the Owners.

Section 8. "Conveyance" shall mean and refer to conveyance of a fee simple title to the surface estate of a Lot from one Owner to another.

Section 9. "Declarant" shall mean and refer to CYPRESS SPRINGS ESTATES, Ltd., a Texas Limited Partnership, and its successors or assigns who are designated as such in writing, by Declarant, and who consent in writing to assume the duties and obligations of the Declarant with respect to the Lots acquired by such successor or assign.

Section 10. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions and any amendments, annexations and supplements hereto made in accordance with the terms hereof and filed of record in the Real Property Records of Kerr County, Texas.

Section 11. "Development Period" shall mean and refer to that period of time in which Declarant is the owner of any Lot, whether in Phase One or any additional annexed areas.

Section 12. "Drainage Control Device" shall mean and refer to those referred to herein as "artificial pond(s)".

Section 13. "Improvement" shall mean every structure on the Properties and all appurtenances thereto of every type and kind, including but not limited to, buildings, outbuildings, storage sheds or buildings, guest quarters, gazebos, patios, driveways, walkways and paved areas, tennis courts, fountains, large barbeque units, green houses, barns, basements, and large visible decorative items, swimming pools, garages, fences, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment, and pumps, tanks, pipes, lines, meters, antennas, satellite dishes, towers, and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

Section 14. "Living Unit" shall mean and refer to a single-family residence and its attached or detached garage situated on a Lot.

Section 15. "Lot" shall mean and refer to any of the plots of land numbered Lots 48 - 92, CYPRESS SPRINGS ESTATES, Phase Two, Section One, as shown on the Subdivision Plat.

Section 16. "Master Plan" shall mean that certain preliminary plan of development for the Project area, as depicted on Exhibit "K" of the Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ES-

TATES, Phase One, as recorded in Volume 1006, Page 53 of the Real Property Records of Kerr County, Texas, and fully incorporated herein by reference, the original of which plan is maintained at Declarant's offices. The Master Plan is not binding on Declarant and may be amended by Declarant from time to time.

Section 17. "Member" shall mean and refer to those Owners entitled to membership as provided in the Articles of Incorporation of the Association.

Section 18. "Mortgage" shall mean any mortgage or deed of trust covering any portion of the Properties given to secure the payment of a debt.

Section 19. "Mortgagee" shall mean the holder or holders of any Mortgage or Mortgages, or any other interest held as security for the performance of an obligation.

Section 20. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to the surface estate in any Lot, or portion of a Lot, which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. The term "Owner" shall also include the record owners of the fee simple title to the surface estate in any lot in CYPRESS SPRINGS ESTATES Phase One, as the term "Owner" is defined in the Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ESTATES, Phase One, as recorded in Volume 1006, Page 53 of the Real Property Records of Kerr County, Texas.

Section 21. "Plans and Specifications" shall mean any and all documents designed to guide the construction, alteration or erection of any Improvement.

Section 22. "Property" shall mean and refer to CYPRESS SPRINGS ESTATES, Phase Two, Section One, a subdivision of Kerr County, Texas, save and except COMMON AREAS/ROADS, and any additions thereto as may hereafter be brought within the Jurisdiction of the Association.

Section 23. "Single Family" shall mean and refer to a group related by blood, adoption, or marriage or a number of unrelated house mates equal to the number of bedrooms in a living unit.

Section 24. "Subdivision" shall mean and refer to the Property, as defined herein.

Section 25. "Subdivision Plat" shall mean and refer to the map or plat of CYPRESS SPRINGS ESTATES, Phase Two, Section One, filed for record in Volume 7, Page 172-173, of the Plat Records of Kerr County, Texas, and any amendments thereof upon filing of same for record in the Real Property Records of Kerr County, Texas.

Section 26. "Transfer" shall mean and refer to the transfer of the surface estate of a Lot, from one legal entity to any department thereof or to another legal entity whether or not the owner of record changes.

## ARTICLE II RESERVATION, EXCEPTIONS, DEDICATIONS AND CONDEMNATION

Section 1. Incorporation of Plat. The subdivision plat of CYPRESS SPRINGS ESTATES, Phase Two, Section One, dedicates for use as such subject to the limitations set forth therein, certain streets and easements shown thereon, and such subdivision plat further establishes certain dedications, limitations, reservations and restrictions applicable to the Property. All dedications, limitations, restrictions and reservations shown on the subdivision plat, to the extent they apply to the Property, being adopted in each contract, deed and conveyance executed or to be executed by or on behalf of Declarant, conveying each Lot within the Property.

Section 2. Reservation of Minerals. The Property, and any future land made subject to this Declaration, are hereby subjected to the following reservation and exception: All oil, gas and other minerals in, on and under the hereinabove described property are hereby excepted or reserved by Declarant.

Section 3. Condemnation. If all or any part of the Common Area is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary), the Association and each owner shall be entitled to participate in proceedings incident thereto at their respective expense. The Association shall give timely written notice of the existence of such proceedings to all owners and to all First Mortgagees



(as defined in Article X hereof) known to the Association to have an interest in any Lot. The expense of participation in such proceedings by the Association shall be borne by the Association and paid for out of assessments collected pursuant to Article V hereof. The Association is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Association in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings.

All damages or awards for such taking shall be deposited with the Association, and such damages or awards shall be applied as follows. If an action in eminent domain is brought to condemn a portion of the Common Areas, the Association, in addition to the general powers set out herein, shall have the sole authority to determine whether to defend or resist any such proceeding, to make any settlement with respect thereto; or to convey such portion of the property to the condemning authority in lieu of such condemnation proceeding. With respect to any such taking, all damages and awards shall be determined for such taking as a whole and not for each Owner's interest therein. After the damages or awards for such taking are determined such damages or awards shall be paid to the Association. The Association, if it deems advisable, may call a meeting of the Owners, at which meeting the Owners, by a majority vote, shall decide whether to replace or restore as far as possible, the Common Areas so taken or damaged. In the event it is determined that such Common Area should be replaced or restored by obtaining other land, this Declaration shall be duly amended by instrument executed by the Association on behalf of the Owners. If it is determined that the Common Areas should not be replaced, the Association shall pay the funds received as damages to the account of each Owner and First Mortgagee, if any, as their interests may appear.

### ARTICLE III PROPERTY RIGHTS

Section 1. Owner's Easements Of Enjoyment. Every Lot Owner of CYPRESS SPRINGS ESTATES, Phase One, and CYPRESS SPRINGS ESTATES Phase Two, Section One, who resides on a lot in either subdivision, shall have a right to an easement of enjoyment in and to the Common Areas of either subdivision which shall be appurtenant to and shall pass with the title to every lot of either subdivision subject to the following provisions:

- (a) the right of the Association to grant or dedicate easements in, on, under or above the Common Areas or any part thereof to any public or governmental agency or authority or to any utility company for any service to the Property or any part thereof;
- (b) the right of the Association to prevent an Owner from planting, placing, fixing, installing or constructing any vegetation, hedge, tree, shrub, fence, wall, structure or improvement or store any personal property on the Common Areas or any part thereof without the prior written consent of the Association. The Association shall have the right to remove anything placed on the Common Areas in violation of the provisions of this subsection and to assess the cost of such removal against the Owner responsible;
- (c) the right of Declarant (and its sales agents and representatives) to the nonexclusive use of the Common Areas and the facilities thereof, for display and exhibit purposes in connection with the sale of Lots within the Property, which right Declarant hereby reserves; provided, however, that such use shall not continue for a period of more than ten (10) years after conveyance of the Common Areas within the Property to the Association; provided further, that no such use by Declarant or its sales agents or representatives shall otherwise unreasonably restrict the Members in their use and enjoyment of the Common Areas;
- (d) the right of the Association to limit the number of guests of Owners utilizing the recreational facilities and Improvements owned by the Association and provided upon Common Areas;
- (e) the right of the Association to establish uniform rules and regulations and to charge reasonable admission and other fees pertaining to the use of any recreational facilities owned by the Association; and
- (f) the right of the Association to suspend the voting rights of an Owner and the Owner's right to use any recreational facility of the Association during the period the Owner is in default in excess of thirty (30) days in the payment of any maintenance charge assessment against a Lot and to suspend such rights for a

period not to exceed sixty (60) days for any infraction of its published rules and regulations. The aforesaid rights of the Association shall not be exclusive but shall be cumulative of and in addition to all other rights and remedies which the Association may have by virtue of this Declaration or its By-Laws or at law or in equity on account of any such default or infraction.

Section 2. Delegation of Use. Owners subject to an easement of enjoyment in and to the Common Areas may delegate, in accordance with the By-Laws, their right to or enjoyment of the Common Areas to members of their families, tenants or contract purchasers who reside in Owner's residential dwelling.

Section 3. Waiver of Use. No Owner may be exempt from personal liability for assessments duly levied by the Association, nor release a Lot owned from the liens and charges hereof by waiver of the use and enjoyment of the Common Areas thereof or by abandonment of Owner's Lot.

Section 4. Proportionate Ownership. The proportionate ownership interests in the Common Areas of the owners of CYPRESS SPRINGS ESTATES Phase One by virtue of Association membership immediately prior to the filing of this Supplemental Declaration shall be equal to the number of lots owned by such owner divided by the total number of lots and within the land then subject to this Declaration after this annexation.

#### ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Each person or entity who is a record Owner of any of the Property which is subject to assessment by the Association shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of the land which is subject to assessment by the Association.

Section 2. Voting Classes. The Association shall initially have two classes of voting membership.

Class A. Class-A members shall be all Owners with the exception of the Declarant (except as hereinafter provided) and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote of such Lot, shall be exercised as the persons among themselves determine, but in no event shall more than one vote be cast with respect to each Lot owned.

Class B. The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned.

Class B membership shall cease and be converted to Class A membership on the earlier of the following dates:

- (a) the date on which the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership; or
- (b) January 1, 2007.

## ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property hereby covenants, and the Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (a) annual assessments or charges; and
- (b) special assessments which are to be established and collected as hereinafter provided.

The regular and special assessments, together with interest, penalties, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing and contractual lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, penalty, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment

became due. Personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 2. Purposes of Assessment. The assessments levied by the Association shall be used exclusively for the purposes of promoting the health, safety, and welfare of the members of the Association and for the improvement and maintenance of the Common Areas including the improvements and landscaping thereon.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot, to an Owner, the maximum annual assessment shall be FOUR HUNDRED TWENTY AND NO/100 DOLLARS (\$420.00) per Lot.

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year above the maximum assessment for the previous year without a vote of the membership by the percentage change by which the Consumer Price Index for the immediately preceding calendar year exceeds such Index for the calendar year prior thereto or by fifteen percent (15.00%), whichever is greater. As used herein, the "Consumer Price Index" shall mean the year end Consumer Price Index for All-Urban Consumers, published by the U.S. Department of Labor (or a generally accepted replacement should such index no longer be published).
- (b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner the maximum annual assessment may be increased above the rates specified in this Section 3, paragraph by a vote of two-thirds (2/3) members duly called entitled to vote in person or by proxy, at a meeting called for this purpose.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying in whole or in part, the cost for necessary purposes of the Association, such as the construction, reconstruction, repair or replacement of a capital improvement in the Common Areas, including fixtures and

personal property related thereto, or for counsel fees or the fees of other retained experts provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members entitled to vote in person or by proxy, at a meeting duly called for this purpose.

Section 5. Rate of Assessment. All Lots within the Property shall commence to bear their applicable assessments simultaneously, and improved Lots owned by the Declarant are not exempt from assessment. Lots which are owned by or transferred to a Builder or which are occupied by residents and improved Lots owned by Declarant shall each be subject to an annual assessment as determined by the Board of Directors pursuant to the terms of this Declaration. Unimproved Lots which are owned by Declarant shall be assessed at the rate of one-fourth (1/4) of the annual assessment; however, said assessments shall be made only in the event and then only to the extent that assessments from Lots owned by members other than Declarant are not sufficient to meet the operating budget of the Association. As used herein, the term "Improved Lot" shall mean a Lot on which a residential dwelling has been constructed and is ready for occupancy as evidenced by the issuance of a Certificate of Occupancy by the County of Kerr, Texas. A Lot assessment shall be assessed against a builder, instead of Declarant when a Lot is made available for improvement by said Builder and there is written confirmation, reservation, or conveyance of said Lot by Declarant in favor of Builder. As used in this Section 5, the term "Declarant" shall be construed to mean only Cypress Springs Estates, Ltd., and its successors and assigns, acting in their capacity as land developers; and a Lot owned, reserved, or held by a home building division or any commercial construction division of Declarant shall be subject to full assessment as provided herein.

If there is a deficit in the annual operating budget of the Association for a given calendar year, after assessment of Declarant's unimproved Lots and funds are not available to the Association from prior year budget surpluses, then Declarant shall contribute the funds necessary to cover the deficit. Declarant's obligation to fund these budget deficits as described hereinabove shall terminate on the date that Class B membership ceases, as described herein.

Section 6. Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of a Lot to an Owner or a transfer of any Lot owned by Declarant to a Builder. The first annual as-

assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to each Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether or not the assessments on a specified Lot have been paid.

Section 7. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of the maximum lawful rate or twelve percent (12.00%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot.

Section 8. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. The sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall not extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. However, said assessments are subject to the rights of the first mortgage holder to recover all sums due said mortgagee. No sale or transfer shall relieve such Lot from liability of any assessments which thereafter become due or from the lien thereof.

Section 9. Exempt Properties. Any portion of the Property dedicated to and accepted by a local public authority, or owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Texas shall be exempt from the assessments created herein. However, no land or improvements devoted to residential dwelling use shall be exempt from said assessments.

## ARTICLE VI ARCHITECTURAL CONTROL

Section 1. Architectural Approval. The overall plan for the development of the various areas and sections which make up the Subdivision contemplates centralization of architectural control to enhance, insure and pro-

protect the attractiveness, beauty and desirability of the area as a whole while at the same time permitting compatible distinctiveness of individual developments within the area. For this purpose, Declarant hereby reserves and retains the right of architectural control to itself or its assignee as hereinafter provided. The Architectural Control Committee established in Article VI of the Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ESTATES, Phase One, as recorded in Volume 1006, Page 53 of the Real Property Records of Kerr County, Texas, shall have full authority to approve or disapprove plans, specifications, and plot plans submitted or to designate a representative with like authority. Declarant retains the exclusive right to review and approve or disapprove all plans and specifications for original construction on the Property.

It is accordingly covenanted and agreed that no building, fence, wall, or other structure shall be commenced, erected, or maintained upon the Property, nor shall any exterior addition to or change or alteration to such structure or the color thereof (including, without limitation, site landscaping visible from any part of the Property and grading plans, patio covers, and trellises, plans for off-street parking of vehicles and utility layout), be made until the plans and specifications showing the nature, kind, shape, height, materials, color, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee. In the event said Committee, or its designated representative, fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been received by it, approval will not be required, and this Article will be deemed to have been fully complied with. All plans and specifications shall be submitted in writing over the signature of the Owner of the Lot, or the Owner's authorized agent. The Architectural Control Committee shall have the right to require any Owner to remove or alter any structure which has not received approval or is built other than in accordance with the approved plans. The requirement of this Article is in addition to any approvals or permits required by any appropriate governmental approval of plans as complying with the applicable Minimum Construction Standards adopted and promulgated from time to time for the Property by Declarant or its assigns, shall be only for such purposes and shall not serve as approval for any other purpose.

Declarant hereby reserves and retains the right, at its option, to assign its rights hereinabove set forth to an Architectural Control Committee ap-



pointed by the Association. In the event Declarant elects to assign such rights of approval, such assignment shall be evidenced by an instrument in writing and acknowledged by the proper officers of Declarant and placed of record in the appropriate records of the County Clerk of Kerr County, Texas.

Section 2. No Liability. Neither Declarant, the Association, its Board of Directors, nor the Architectural Control Committee or the members thereof shall be liable in damages to anyone submitting plans or specifications to them for approval, or to any Owner of a Lot, affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications to the Architectural Control Committee for approval agrees by submission of such plans and specifications, and every Owner agrees, that no action or suit for damage will be brought against Declarant, the Association, its Board of Directors, the Architectural Control Committee, or any of the members thereof.

Section 3. Notice of Noncompliance or Noncompletion. Notwithstanding anything to the contrary contained herein, after the expiration of one (1) year from the date of issuance of a building permit by municipal or other governmental authority for any improvement, said improvement shall, in favor of purchasers and encumbrances in good faith and for value, be deemed to be in compliance with all provisions of this Article VI unless actual notice of such noncompliance or noncompletion, executed by the Architectural Control Committee, or its designated representative, shall appear of record in the office of the County Clerk and be Recorded in Kerr County, Texas, or unless legal proceedings shall have been instituted to enforce compliance or completion.

Section 4. Rules and Regulations. The Architectural Control Committee may from time to time, in its sole discretion, adopt, promulgate, amend and repeal rules and regulations interpreting and implementing the procedures of this Article VI.

Section 5. Variances. The Architectural Control Committee, by the vote or written consent of a majority of the Members thereof, may allow reasonable variances as to any of the covenants, conditions or restrictions, contained in this Declaration under the jurisdiction of such committee pursuant to this Article VI, on such terms and conditions as it shall require; provided,

however, that all such variances shall be in keeping with the general plan for the improvement and development of the Property.

## ARTICLE VII DUTIES AND MANAGEMENT OF THE ASSOCIATION

Section 1. Duties and Powers. In addition to the duties and powers enumerated in its Articles of Incorporation and By-Laws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

- (a) Own, maintain and otherwise manage all Common Areas and all facilities, improvements, and landscaping thereon, and all other property acquired by the Association, including the Common Area Detention Pond.
- (b) Pay any real and personal property taxes and other charges assessed against the Common Areas.
- (c) Have the authority to obtain, for the benefit of all of the Common Areas, all water, gas and electric services and refuse collection.
- (d) Grant easements where necessary for utilities and sewer facilities over the Common Areas to serve the Common Areas and the Property in general.
- (e) Maintain such policy or policies of insurance as the Board of Directors of the Association may deem necessary or desirable in furthering the purposes of and protecting the interests of the Association and its members.
- (f) Have the authority to contract with a management company for the performance of maintenance and repair and for conducting other activities on behalf of the Association, provided that such contract shall be limited to a duration of one (1) year, except with the approval of a majority of the Members entitled to vote. Any such management agreement shall provide that it will be terminable by the Association without a termination fee for

cause upon thirty (30) days written notice or without cause by either party upon ninety (90) days written notice.

- (g) Have the power to establish and maintain a working capital and contingency fund in an amount to be determined by the Board of Directors of the Association.
- (h) Have a duty to landscape and maintain the landscaping upon the Common Areas and the duty to maintain the perimeter walls or fences located at entrances to the Property, Common Areas, and fencing and walls located on portions of Lots described herein:
  - i. The duty to maintain fencing or walls extends to any such structures located on the boundary lines of the perimeter of the subdivision, the entrance fencing and the entry and exit gates and structures.
- (i) Have a duty to maintain the COMMON AREA ROADWAYS located throughout the subdivision and as set-out herein.

## ARTICLE VIII UTILITY BILL, TAXES AND INSURANCE

### Section 1. Obligation of Owners.

- (a) Each Owner shall have separate electric, gas and water meters and shall directly pay for all gas, water, sanitary sewer service, telephone service, security systems, cable television and other utilities used or consumed by Owner.
- (b) Each Owner may directly render for taxation Owner's Lot, and improvements thereon, and shall at Owner's own cost and expense directly pay all taxes levied or assessed against or upon Owner's Lot.

### Section 2. Obligation of the Association.

- (a) The Association shall pay, as a common expense of all Owners, for all water, gas, electricity and other utilities used in connec-

tion with the enjoyment and operation of the Common Areas or any part thereof.

- (b) The Association may render for taxation and as part of the common expenses of all owners, shall pay all taxes levied or assessed against or upon the Common Areas and the improvements and the property appertaining thereto.
- (c) The Association shall have the authority to obtain and continue in effect, as a common expense of all Owners, a blanket property insurance policy or policies to insure the structures and facilities in the Common Areas, and the contents thereof, and the Association against risks of loss or damaged by fire and other hazards as are covered under standard extended coverage provisions in such amounts as the Association deems proper, and said insurance may include coverage against vandalism and such other coverage as the Association may deem desirable. The Association shall also have the authority to obtain comprehensive public liability insurance in such amounts as it shall deem desirable, insuring the Association, its Board of Directors, agents and employees and each Owner (if coverage for Owners is available) from and against liability in connection with the Common Areas.
- (d) All costs, charges and premiums for all utility bills, taxes and any insurance to be paid by the Association, as hereinabove provided, shall be paid as a common expense of all Owners and shall be paid out of the assessments.

## ARTICLE IX RESTRICTIONS OF USE

Section 1. Single Family Residential Construction. Subject to Sections 2 and 13 of this Article, each Lot shall be used only for single family residence purposes. No building shall be erected, altered or permitted to remain on any Lot other than one single-family detached residential dwelling not to exceed three (3) stories in height, and a private garage for not less than two (2) nor more than three (3) cars and not to exceed one story in height, unless specifically approved by the Architectural Control Committee, and a bona fide servants' quarters or guest house, which structure shall not

exceed the main dwelling in height or number of stories. No such residence shall be constructed on less than the equivalent of one full Lot as defined in this Declaration or that may appear on any recorded plat or replat approved by Declarant or its assignee.

Section 2. Prohibition of Offensive or Commercial Use. No activity which may become an annoyance or nuisance to the neighborhood or which shall in any way unreasonably interfere with the quiet enjoyment of each Owner of such Owner's Lot, or which shall degrade property values or detract from the aesthetic beauty of the Property, shall be conducted thereon. No repair work, dismantling, or assembling of boats, motor vehicles or other machinery shall be done in any driveway or adjoining street. No part of the Property shall ever be used, or caused to be used, or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such nonresidential purposes. Notwithstanding the above, Declarant, its successors or assigns, or Builders may use the Property for model homes display and sales offices during the Development Period, during construction or until all new homes on the Property have been sold.

Section 3. Minimum Square Footage. The living area of the main residential structure for a Lot exclusive of porches, garage and servants' quarters shall not be less than 2,100 square feet for a one-story and shall not be less than 2,400 square feet for a two-story.

Section 4. Building Materials. Seventy-five percent (75%) of the exterior materials of the main residential structure and the garage, whether attached or detached, shall be stucco or stone. The remaining twenty-five percent (25%) of the exterior materials shall be masonry, stone, stucco, wood or brick. Notwithstanding the foregoing, the Architectural Control Committee is empowered to waive this restriction, if, in its sole discretion, such waiver is advisable in order to accommodate a unique or advanced building concept, design or material, and the resulting structure will not detract from the general appearance of the neighborhood. Wall materials used on all Lots shall be restricted to those types and colors approved by the Architectural Control Committee. No single family construction, private garage or any other structure located on the Property shall be permitted to have a heating or cooling device located in a window or any other opening which can be viewed from any portion of the Property. Heating and cooling devices may be used in windows or other openings of any structure used by Declarant or

a Builder during the completion and sale of all construction of this subdivision.

Section 5. Location of Improvements Upon the Lots. No building shall be located on any Lot or nearer to the front line than fifty (50) feet, nor nearer to the side street line than fifteen (15) feet. No building shall be located on any Lot nearer than fifteen (15) feet to any side nor seventy-five (75) feet to the rear lot line. Building setbacks from interior side lot lines shall be subject to the following provisions:

Subject to the provisions of Article VI, Sections 1 and 5 and Section 6 of this Article, no building on Lots shall be located nearer than fifteen (15) feet to an interior side lot line. No detached type garages shall be allowed on the following listed Lots and garages must be an integral part of the volume of the house so as to avoid screening artificial pond views from adjacent Lots:

Lots 48 – 50, 83, 84, CYPRESS SPRINGS ESTATES, Phase Two, Section One.

Garages located fifteen (15) feet or more from the front lot line on all other Lots may be a minimum distance of fifteen (15) feet from an interior lot line. For the purpose of this provision, eaves, steps, box-type windows and unroofed ground-level terraces shall not be considered as part of a building, provided, however, that this shall not be construed to permit any improvement of a Lot to encroach within fifteen (15) feet of the side or rear lot line or upon another Lot.

Access to corner lot garages directly from side streets is prohibited unless specifically approved by Declarant or its assignee.

Section 6. Deviations. Declarant, at its sole discretion, is hereby permitted to approve deviations in these restrictions on building area, location of improvements on the Lots and building materials in instances where in its judgment, such deviation will not adversely affect the development of the property as a whole. Such approvals must be granted in writing and when given will automatically amend these restrictions.

Section 7. Composite Building Sites. Any Owner of one or more adjoining Lots, or (or portions thereof) may consolidate such Lots or portions

into one (1) building-site, with the privilege of placing or constructing improvements on such resulting site, in which event setback lines shall be measured from the resulting side property lines rather than from the lots lines as indicated on the recorded plat. Any such composite building site must have a frontage at the building setback line of not less than the minimum frontage of lots in the same block of CYPRESS SPRINGS ESTATES, Phase Two, Section One. Any revision of Lot sizes may be made only with written approval of Declarant.

Section 8. Utility Easements. Easements for installation and maintenance of utilities are reserved as shown on the recorded plat, and no structure shall be erected on any of such easements. Neither Declarant nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees or contractors to shrubbery, trees, flowers or improvements located on the land covered by such easements.

Section 9. Universal Easement. The owner of each Lot within the Property is hereby declared to have a universal easement, and the same is hereby granted to Declarant, over all adjoining for the purpose of accommodating any encroachment due to engineers errors, errors in original construction, settlement or shifting of the building, or any other cause. There shall be easements for the maintenance of said encroachment, settling or shifting; provided, however, that in no event shall an easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to willful misconduct of said Owner or Owners. In the event a structure on any Lot is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots shall be permitted and there shall be easements for the maintenance of said encroachments so long as they shall exist. In addition, each Lot within the Property is hereby declared to have an easement for overhanging roofs and eaves as originally constructed over each adjoining Lot for the maintenance thereof. Each of the easements hereinabove referred to shall be deemed to be established upon the recondition of this Declaration and shall be appurtenant to the Lot being served and shall pass with each conveyance of said Lot. Said Universal Easement will continue so long as completed dwellings or dwellings under construction remain on any Lot. In the event Lots upon which no construction of any type has commenced, are reclassified, the provisions hereof shall no longer apply thereto.

Section 10. Electrical Distribution Service. An electric distribution system will be installed in the Property, in a service area that will embrace all of the lots which are platted in the Property. The Owner of each lot containing a single dwelling unit, shall, at its own cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of the company's metering at the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes. The point of attachment to be made available by the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter.

Declarant has, either by designation on the plat or by separate instrument, granted necessary easements to the electric company providing for the installation, maintenance and operation of its electric distribution system and has also granted to the various homeowners reciprocal easements providing for access to the area occupied by and centered on the service wires of the various homeowners to permit installation, repair and maintenance of each Owner's owned and installed service wires. In addition, the Owner of each Lot containing a single dwelling unit, or in the case of a multiple dwelling unit structure, the Owner and developer thereof, shall at its own cost, furnish, install, own and maintain a meter loop (in accordance with the then current standards and specifications of the electric company furnishing service) for the location and installation of the meter or such electric company for each dwelling unit involved. For so long as this service is maintained in the Property, the electric service to each dwelling unit shall be underground, uniform in character, and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

The electric company has installed the electric distribution system in the Property at no COST to Declarant (except for certain conduits, where applicable, and except as hereinafter provided) upon Declarant's representation that the lots are being developed for residential dwelling units, including homes, all of which are designated to be permanently located where originally constructed (such category of dwelling units expressly to exclude mobile homes.)

Easements for the underground service may be crossed by driveways and walkways provided the Lot Owner makes prior arrangements with the



utility company furnishing any utility service occupying the easement and provides and installs the necessary conduit of approved type and size under such driveway or walkways prior to construction thereof.

Such easement for the underground service shall be kept clear of all other improvements, including buildings, patios or other pavings, and neither Declarant nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees or servants, to shrubbery, trees, flowers or other improvements (other than crossing driveways or walkways providing conduit has been installed as outlined above) of the Lot Owner located on the land covered by such easements.

Section 11. Audio and Video Communication Service. In the event that audio and video communication services and facilities are made available to any Lot by means of an underground coaxial cable system, there is hereby reserved to the company furnishing such services and facilities a two (2) foot wide easement along and centered on the underground wire or cable when and as installed by the company furnishing the service from and at a right angle to the utility easement nearest to the point of connection on the permanent improvement or structure constructed, or to be constructed, upon the Lot and in a direct line from the nearest utility easement to the point of connection.

Section 12. Temporary Structures and Out Buildings. No structures of a temporary character, nor any recreational vehicle, mobile home, trailer, basement, tent, shack, garage, barn, playhouse or other outbuilding shall be constructed, erected, altered, placed or permitted to remain on any Lot, at any time as a residence. Outbuildings or structures, whether temporary or permanent, used for accessory, playhouse, storage, or other purposes shall be limited to eight feet in height and one hundred (100) square feet in area and must be approved in accordance with Article VI, Section 1 of this Declaration. Temporary structures may be used as sales offices or as construction offices and for other related purposes by Declarant or Builders during the construction and sales period. Such structures shall be inconspicuous and slightly and shall be removed at completion and sale of all construction of this subdivision.

No temporary structures or outbuildings shall be allowed on the last thirty-five (35) feet toward the rear drainage, as shown on the Subdivision Plat, of the following listed Lots:

Lots 48 – 50, 83, 84, CYPRESS SPRINGS ESTATES, Phase Two, Section One.

Section 13. Animal Husbandry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except dogs, cats or other common household pets provided they are not kept, bred or maintained for commercial purposes. Provided however, no more than two horses shall be permitted on each of the following Lots:

Lots 80, 90, and 92 CYPRESS SPRINGS ESTATES, Phase Two, Section One.

Notwithstanding the foregoing, no animals or fowl may be kept on the Property which result in an annoyance or are obnoxious to residents in the vicinity, including any noxious odors or smells. Animals are not permitted to roam the Property and must be controlled on a leash if they are not on a Lot. Owners are required to immediately clean-up any waste products left by their animal on the Common Areas or any property within the Subdivision which is visible from the street.

Section 14. Walls, Fences and Hedges. All walls, fences, planters and hedges shall be controlled strictly for compliance with this Declaration and architectural standards established by the Declarant or the Architectural Control Committee. Placement of all walls, fences, planters and hedges shall be controlled by the Architectural Control Committee.

- (a) Fencing constructed along the drainage control device easement shall be wrought iron and only as approved by the Architectural Control Committee, with a maximum height of six (6) feet, and approved by the Architectural Control Committee for design:

Lots 48 – 50, 83, 84, CYPRESS SPRINGS ESTATES, Phase Two, Section One.

- (b) Perimeter fencing on all Lots shall be maintained to a fence standard equivalent to original construction and all fencing must be

consistent with this Declaration and architectural standards established by Declarant or the Architectural Control Committee.

- (c) Fences of wire or chain link construction are prohibited, and the design and materials of all fences shall be approved by the Architectural Control Committee prior to construction pursuant to the approval requirements of Article VI, Section 1, of this Declaration.
- (d) All masonry used in a fence or wall on a Lot shall match the primary masonry used on the residence. All masonry columns shall be six and one-half feet (6'6") in height and shall be no further than twenty-five feet (25') apart if visible from any street. All wood, if any used in fencing (including wooden gates for wing walls) shall be composed of one inch by four inch (1" x 4"), six feet (6') tall, notched, vertical cedar planks, without gaps between planks. Cedar fencing may be stained, painted, or sealed only with ACC approval. All wrought iron used in fencing shall be painted black. All gates shall be composed of the same material as the fence. No fence shall exceed six feet (6') in height unless specifically approved by the ACC and governing authority. Notwithstanding the above, wrought iron may be used only as approved by the Architectural Control Committee.
- (e) Each Owner shall maintain all fencing placed on his Lot including the reconstruction or replacement of fences which are tilted more than ten (10) degrees from a vertical position and the replacement of broken or cracked wooden pickets.

#### Section 15. Yards.

- (a) Front Yard. All landscaping designs for the front yard area shall be approved by the Architectural Control Committee prior to construction or alteration. No more than ten percent (10%) in area of the front yard area of any Lot, excluding driveways and sidewalks, may be covered by rock or material other than dirt and vegetation except for such driveways and sidewalks as have been approved by the Architectural Control Committee. The "front yard area" shall be defined as that area of a Lot situated between the front Lot line and a line extending from the

front of a residence to the side Lot lines. Installation of all landscaping and irrigation systems shall be installed within ninety (90) days of first occupancy in accordance with the landscape plan approved by the Architectural Control Committee. Installation of any landscaping after ninety (90) days from first occupancy is solely at the discretion of the Architectural Control Committee and subject to approval prior to installation pursuant to Article VI., of the Declaration. Statues, statuary fountains, multiple tier planters, concrete and other lawn furniture are prohibited in front and side yards. Placement of any decorative items in front or side yards is subject to ACC approval.

- (b) Back Yard. The Owners or occupants of any Lots as the intersection of streets or adjacent to parks, playgrounds or other facilities where the rear yard or portion of the Lot is visible to public view from a street or Common Area shall construct and maintain an inner fence or other improvements as approved by the ACC to adequately screen from view of streets and Common Area any of the following: the drying of clothes, yard equipment, wood piles or storage piles which are incident to the normal residential requirements of a typical family. Trash, garbage or other waste materials shall be kept in a clean and sanitary condition.

Section 16. Antennas. No radio or television aerial or antennae or other radio or television related apparatus or equipment shall be placed or maintained on any residence or on any other exterior portion of a Lot except with the prior written approval of the Architectural Control Committee which shall have the authority to disapprove the installation of same. With the prior written consent of the Architectural Control Committee, a satellite disc or dish may be placed on a Lot where not visible from a street or Common Area and where such location does not adversely affect the view from an adjacent Lot.

Section 18. Artificial Vegetation. No artificial vegetation shall be installed or kept in front or side yard areas on any Lot.

Section 19. Athletic Facilities. Tennis-court lighting and fencing shall be allowed only with the approval of the ACC. Basketball goals, or backboards, or any other similar sporting equipment (portable basketball goals)

whether permanent or temporary nature shall not be placed within twenty feet (20') from the front property line of any Lot or the side Lot lines of corner Lots, or within five (5') of any interior side Lot line in the Subdivision without the prior written consent of the ACC. All basketball backboards shall be of a clear, transparent material. The Acc will consider other quality backboard materials. All supporting poles and stanchions shall be painted either black or dark hunter green. All basketball backboards shall be maintained in a playable condition at all times and any damaged structure shall be repaired or removed immediately.

1. All children's play equipment or structures shall be submitted to the ACC for review.
2. Landscaping and fencing requirements may be established by the Committee for the purpose of screening courts in an aesthetically pleasing manner.

Section 20. Visual Obstructions at the Intersections of Public Streets.

No object or thing which obstructs sight lines at elevations, between two (2) and six (6) feet above the roadways within the triangular area formed by the junction of street curb lines and a line connecting them at points twenty-five (25) feet from the junction of the street curb lines (or extensions thereof) shall be placed, planted or permitted to remain on any corner lots.

Section 21. Lot Maintenance. All Lots shall be kept at all times in a sanitary, healthful and attractive condition, and the Owner or occupant of all Lots shall keep all weeds and grass thereon cut and neatly maintained and shall in no event use any Lot for storage of material and equipment except for normal residential purposes or incident to construction of improvements thereon as herein permitted, or permit the accumulation of garbage, trash or rubbish of any kind thereon, and shall not burn any garbage, trash or rubbish. The following Lots shall have the additional duty to maintain the perimeter portion of any artificial pond which shall lie on their property, as set out in the plat for CYPRESS SPRINGS ESTATES, PHASE TWO, SECTION ONE:

Lots 48 and 82-85

Section 22. Storage of Automobiles, Boats, Trailers Other Vehicles and Equipment. No automobiles, boats, trailers, campers, recreational vehi-

cles, motorcycles, buses, inoperative vehicles of any kind, camp rigs off truck, or boat rigging shall be parked or stored permanently or semi-permanently on any Subdivision street right-of-way, front yard area or on driveways. Permanent or semi-permanent storage of such vehicles or items must be completely screened from public view either within the garage or behind a solid fence. For the purposes of these restrictions, the words "semi-permanent" shall be defined as remaining in the same location without movement for forty-eight (48) or more consecutive hours. No eighteen wheel vehicles and other similar large van or flatbed type vehicles may be parked on any public street right-of-way, front yard area or on driveways except to deliver merchandise or other materials to residents or construction sites.

Section 23. Signs, Advertisements and Billboards. No sign, advertisement, billboard or advertising structure of any kind shall be displayed to the public view on any portion of a Lot except for one sign for each Lot of not more than twenty-eight (28) inches by thirty-eight (38) inches solely for advertising the house for sale or rent, and except signs used by Declarant or a builder to advertise the Lot during the construction and sales period. No signs shall be permitted on any unimproved Lot. The Declarant and the Association shall have the right to remove any signs, advertisement, billboard or structure which is placed on said Lot in violation of this section and in so doing shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal.

Section 24. Removal of Soil and Trees; Pruning. The digging of soil or the removal of soil from any Lot is expressly prohibited except as necessary in conjunction with the landscaping of or construction on said Lots. No trees shall be cut except to provide room for construction of improvements or to remove dead or unsightly trees and then only following the obtaining of written approval for such cutting by Declarant, the ACC or the Association, given in their sole discretion. No trees shall be pruned during the months of February through May, without obtaining written approval for such pruning from the Declarant, the ACC or the Association, given in their sole discretion.

Section 25. Roofing Material. Roofing materials may include composition shingles having a minimum warranty of thirty (30) years, slate, clay or concrete tiles; or they may be metal, left natural or painted a color approved by the Architectural Control Committee, using standing or battened seams.

Composition shingle roofs shall be comparable in color to weathered wood shingles and comparable in surface textural appearance to wood shingles. Colors for slate, clay or concrete tile roofs shall be approved individually by the Declarant or its assignee. Any other type roofing material shall be permitted only at the sole discretion of the Declarant, the Architectural Control Committee or its assigns upon written request.

## Section 26. Driveways and Curbs

### (a) Driveways

1. Driveways on each residential Lot and visible from a street must be constructed of broom finished concrete, pebble finish concrete, brick pavers, or pink crushed granite with curbs, provided, asphalt driveways with curbs may be permitted solely at the discretion of the Architectural Control Committee and subject to approval prior to installation pursuant to Article VI., of the Declaration.
2. No more than one curb cut per Lot shall be permitted without approval of the Committee. Except with approval of the Committee, no circular driveway shall be more than twenty feet (20") in width. Driveway locations shall be only as approved by the Committee.
3. Driveways which have more than six inches (6") of exposed concrete foundation sides shall have masonry veneer applied or be fully parged. Landscaping may be required depending on the amount of exposure.
4. The driveway leading directly to the garage shall in all cases, and regardless of the house being on the topographically low or high side of the street, be constructed in a manner consistent with the following guidelines:
  - (1) The elevation of the driveway surface at a point ten (10) linear feet from the curb line shall be at least nine inches (9") higher than the pavement grade at gutter line.

- (2) For Lots on the topographically low side of the street, and in addition to the above, the driveway shall be constructed with a protective swale in front of the garage to prevent runoff water from entering into the house and/or garage. Also, the driveway shall not have the effect of "trapping"

(b) Curbs

1. The header curb adjacent to the asphalt must be concrete and scored with the same scoring pattern as the curb.
2. Any Portion of curbing which is damaged, whether during construction or afterwards, shall be repaired as soon as practicable at the sole and exclusive expense of and by the Owner of the Lot appurtenant to such damaged curb.

(c) General

Loose gravel driveways, excluding pink crushed granite with curbs, are specifically prohibited forward of the front building line. Builders and contractors are required to clean street immediately after aggregate finished sidewalks and driveways have been washed.

Section 27. Exterior Lighting. Exterior light fixtures shall be provided at the front door of each residence; provided, however, that no light fixture or lantern of any type shall be placed in the front yard, or in the back yard if same is visible from any other portion of the Properties or any streets, or any Lot until the same has been approved by the Committee. No exterior lighting of any sort shall be installed or maintained on a Lot where the light source is offensive or a nuisance to neighboring property (reasonable security or landscape, or tennis court lighting is permitted with the approval of the Architectural Control Committee.)

Section 28. Enforcement. In the event of default on the part of the Owner or occupancy of any Lot in observing any or all of the requirements herein set forth, such default continuing after ten (10) days' written notice thereof, the Declarant or the Association may, without liability to the Owner



of occupancy, in trespass, or otherwise, enter upon said Lot, cut, or cause to be cut, such weeds and grass, and remove or cause to be removed, such garbage, trash and rubbish or do any other thing necessary to secure compliance with these restrictions, so as to place said Lot in a neat, attractive, healthful and sanitary condition, and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt thereof. To secure the payment of such charges in the event of nonpayment by the Owner, a vendor's and continuing contractual lien shall be retained by Declarant at the time of conveyance of each Lot in favor of Declarant or the Association, but inferior to a purchase money lien or mortgage. Such vendor's and continuing contractual lien shall be applicable and effective whether mentioned specifically or omitted in each conveyance of a Lot by Declarant.

#### ARTICLE X MORTGAGEE PROTECTION; MANAGEMENT AGREEMENTS; RESERVE FUNDS; LEASES

Section 1. Notice to first Mortgagees. Upon written request to the Association at the address of the Association's registered agent filed with the Secretary of State for the State of Texas, all holders of first mortgage liens on Lots, hereinafter called "First Mortgagees," shall be entitled to:

- (a) inspect the books and records of the Association during normal business hours at a time mutually convenient to Declarant and First Mortgagee;
- (b) upon request, receive an annual audited financial statement of the Association within ninety (90) days following the end of any fiscal year;
- (c) upon request, receive written notice of all meetings of the Association and designate a representative to attend all such meetings;
- (d) upon request, receive notice of any default in the performance by the First Mortgagee's mortgagor of any obligation under this Declaration, the By-Laws or Articles of Incorporation of the Association which is not cured within sixty (60) days;

- (e) upon request, receive notice of any abandonment or termination of the development;
- (f) upon request, receive notice of any material amendment to this Declaration, or to the By-Laws or Articles of Incorporation of the Association; and,
- (g) upon request, receive notice of any decision to terminate professional management and assume self-management.

Section 2. Alienation of Common Areas. Except as to the Association's right to grant easements for utilities and similar or related purposes, the Common Areas may not be abandoned, partitioned, subdivided, sold, alienated, released, transferred, hypothecated, or otherwise encumbered.

Section 3. Management Agreements. Any management agreement will be terminable by the Association without payment of a termination fee with cause upon thirty (30) days written notice, or without cause by either party on ninety (90) days written notice. The term of any such agreement may not exceed one (1) year, renewable by agreement of the parties, for successive one year periods.

Section 4. Reserve Fund. Association budgets shall include an adequate reserve fund for maintenance repairs and replacement of those elements of the Common Areas that must be replaced on a periodic basis and will be payable in regular installments as part of the common assessment.

Section 5. Leases. Any lease agreement between an Owner and a lessee shall be subject in all respects to the provisions of this Declaration, the By-Laws and Articles of Incorporation of the Association whether or not reference is made to the Declarations, By-Laws and Articles of Incorporation in the lease.

## ARTICLE XI GENERAL PROVISIONS

Section 1. Enforcement. The Association and any Owner shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens or charges now or hereafter im-

posed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidity of any one of these covenants, conditions or restrictions shall not affect any other provision, which shall remain in full force and effect.

Section 3. Duration; Amendment. The provisions of this Declaration shall run with and bind the Property for a term of twenty-five (25) years from this date, after which time they shall be automatically extended for successive periods of ten (10) years.

This Declaration may be amended during the first twenty-five (25) year period by an instrument signed by a sufficient number of Owners representing not less than two-thirds (2/3) of the votes in the Association, and thereafter by an instrument signed by a sufficient number of Owners representing not less than fifty percent (50%) of the votes. In addition, any amendment hereto (i) to change the method of determining the obligations, assessments, dues or charges which may be levied against an Owner, or (ii) to change, waive, or abandon any scheme of regulations, or enforcement thereof, pertaining to the maintenance of Common Areas, or (iii) to use hazard insurance proceeds for losses to the improvements in Common Open Areas, if any, for other than the repair, replacement or reconstruction of such improvements shall require the additional approval of two-thirds (2/3) majority of the First Mortgagees (based upon one vote for each mortgage owned).

All amendments shall be recorded in the Official Public Records of Real Property of Kerr County, Texas.

Deeds of conveyance of Lots or any part thereof, may contain the above restrictive covenants by reference to this document, but whether or not such reference is made, each and all of such restrictive covenants shall be valid and binding upon the respective grantees.

The Declarant reserves the right during the Development Period, without joinder or consent of any Owner or mortgagee, to amend this Declaration or the By-Laws by an instrument in writing duly signed, acknowledged and filed for record, for the purpose of resolving or clarifying any

ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors or omissions herein, or to comply with the requirements of Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Veteran's Administration, or Federal Housing Administration, or to change any provision herein for the betterment of the subdivision, provided that no such amendment shall change the vested property rights of any Owner, except as otherwise provided herein.

Section 4. Books and Records. The books and records of the Association shall, during reasonable business hours, be subject to reasonable inspection by any Member. The Board of Directors may, by resolution, establish rules and regulations governing the frequency of inspection and other matters to the end that inspection of the books and records by any Member will not become burdensome to nor constitute harassment of the Association. The Declaration, the Articles of Incorporation and By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

Section 5. Notices. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

Section 6. Good Faith Lender's Clause. Any violation of these covenants, conditions or restrictions shall not affect any lien or deed of trust of record held in good faith, upon any Lot which liens may be enforced in due course, subject to the terms of this Declaration.

Section 7. Mergers. Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, its properties, assets, rights and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, assets, rights and obligations of another association may be transferred to the Association as a surviving corporation. The surviving or consolidated association shall administer the covenants, conditions and restrictions contained in this Declaration, under one administration. No such merger or consolidation shall cause any revocation, change or addition to this Declaration.

EXECUTED effective the 31 day of July 2002.

CYPRESS SPRINGS ESTATES, LTD.

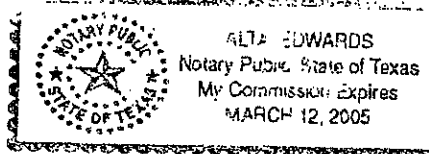
By: Dale A. Crenwelge  
DALE A. CRENWELGE, General Partner

STATE OF TEXAS

COUNTY OF KERR

The foregoing instrument was acknowledged before me on the 5<sup>th</sup>  
day of August, 2002, by Dale A. Crenwelge, General Partner of Cypress  
Springs Estates, Ltd., on behalf of said company.

Alta Edwards  
Notary Public, State of Texas



After recording, return to:  
Dale A. Crenwelge  
P.O. Box 717  
Comfort, Tx 78013

21328

FILED FOR RECORD  
at 4:03 o'clock ..... P.M.

AUG - 6 2002

JANNETT PIEPER  
Clerk County Court, Kerr County, Texas  
Chela Thompson Deputy

Provisions herein which restrict the sale, rental or use of the described property because of color or race is invalid and unenforceable under Federal Law.  
THE STATE OF TEXAS }  
COUNTY OF KERR

I hereby certify that this instrument was FILED in the File Number Sequence on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Records of Real Property of Kerr County, Texas on

AUG 07 2002



*Janet Pieper*

COUNTY CLERK, KERR COUNTY, TEXAS

RECORD

VOL.

*Real Property*

*1207 PG 270*

RECORDING DATE

AUG 07 2002



*Janet Pieper*

COUNTY CLERK, KERR COUNTY, TEXAS

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