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**DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
TEXAS COUNTRY ESTATES, UNIT TWO**

TEXAS COUNTRY ESTATES, LTD., a Texas Limited Partnership, is the Owner and Developer of a certain tract of land located in Comal County, Texas, more particularly described in plat recorded in Document #200806015205 Map and Plat Records of Comal County, Texas, said tract of land and premises being herein referred to as "the Subdivision", and

TEXAS COUNTRY ESTATES, LTD., as Declarant, desires to subject the Subdivision to the protective covenants, conditions, restrictions, reservation and easements herein for the benefit of such property and the present and future Owners thereof.

It is herein declared that all of the Subdivision shall be held, sold and conveyed subject to the following protective covenants, conditions, restrictions, reservations and easements which are for the purpose of protecting the value and desirability of, and which shall run with the real property, and shall be binding on all parties having any right, title or interest in or to the Subdivision or any part thereof, including their heirs, successors and assigns, and which protective covenants, conditions, restrictions, reservations and easements shall inure to the benefit of each Owner thereof, and in general, will insure the best use and most appropriate development of the Subdivision.

**ARTICLE I
DEFINITIONS**

1. "Association" shall mean and refer to the TCE HOMEOWNERS ASSOCIATION, a non-profit corporation, chartered under the laws of the State of Texas.
 2. "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association as set forth in the Articles of Incorporation and By-Laws of the Association.
 3. "Professional Builder Member" shall mean and refer to those Member(s) in the home construction business owning one or more Lots for the purpose of building new homes for sale to others.
 4. "Common Facilities" shall mean and refer to all property leased, owned or maintained by the Association for the use and benefit of the Members of the Association. By way of illustration, Common Facilities may include, but not necessarily be limited to the following: private streets, signs, fountains, statuary, landscaping, walls, dikes, bridges, entry gates, fences, safety lanes, trails, street lighting, security facilities, utilities and other similar or appurtenant improvements.
 5. "Covenants" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions applicable to the Subdivision as duly recorded in the official records of Comal County, Texas.
 6. "Declarant" shall mean and refer to Texas Country Estates, Ltd., its successors and/or assigns.
 7. "Development Period" shall mean a period commencing on the date of the recording of this Declaration in the public real property records of Comal County, Texas, and continuing thereafter until and ending the earlier to occur of: (i) substantial completion of all development, including without limitation, the completion and sale of Lots to third parties, within the Subdivision, as determined by the Declarant or (ii) March 12, 2014.
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8. "Dwelling Unit" shall mean and refer to any building or portion of a building situated upon any Lot within the Subdivision which is designed and intended for use and occupancy as a residence by a single person, a couple, a family or a permitted family size group of persons.

9. "Improvements" shall mean and refer to all buildings, structures, personal property, fixtures and things placed on or erected on, in, upon or under or affixed to the land that is part of the common facilities or any portion thereof including, without limitation, enclosures, buildings and structures for parking of motor vehicles.

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

11. "Lot" shall mean and refer to any of the plots of land as depicted on the Subdivision plat hereinafter defined.

12. "Member" shall mean and refer to all those Owners who are Members of the Association.

13. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of the fee simple title of any Lot within the Subdivision, including contract sellers, but excluding those having interest merely as security for the performance of an obligation.

14. "Resident" shall mean and refer to:

- a) each owner of the fee simple title to any Lot within the Subdivision;
- b) each person residing on any Lot who is a bona-fide lessee pursuant to a legally cognizable lease agreement with an Owner; and
- c) each individual lawfully domiciled in a Dwelling Unit other than an Owner or bona-fide lessee.

15. "Subdivision" shall mean and refer to that certain real property lying within TEXAS COUNTRY ESTATES, UNIT TWO, as depicted on the Subdivision plat recorded in Document # 200806015205 of the Map and Plat Records of Comal County, Texas and such adjacent lands thereto that may from time to time be added and hereafter brought within the jurisdiction of the Association.

16. "Subdivision Plat" shall mean and refer to the plat map of TEXAS COUNTRY ESTATES, UNIT TWO, as filed of record in Document # 200806015205, Map and Plat Records of Comal County, Texas, and such subsequent recorded subdivision of adjacent lands that may from time to time be added and thereafter brought within the jurisdiction of the Association.

ARTICLE II PROPERTY RIGHTS

Owner's Easements of Enjoyment: Every Owner and such Owner's tenants, subtenants, assignees and their invitees shall have a right and easement of enjoyment in and to the Common Facilities which shall be appurtenant to and shall pass with title to every Lot, subject to the following provisions:

- a) The right of the Association to suspend the voting rights of an Owner for any period during which any assessment against the Owner's Lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
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- b) The right of the Declarant to dedicate or transfer all or any part of the Common Facilities to any public agency, authority or utility for such purposes.

ARTICLE III HOMEOWNERS ASSOCIATION

All Lot Owners shall become and continue to be Members of the Homeowners Association for so long as a Lot is owned and such Lot Owner's acceptance of a Deed to the Lot constitutes the Lot Owner's agreement to comply with these Covenants and to comply with its governing Articles, the purposes of which are to provide various services and facilities for the use and benefit of all Lot Owners. All Lot Owners agree to accept such membership and to perform and be bound by the obligations, terms and conditions of membership in the Homeowners Association in accordance with its duly provided charter and by-laws, as they may be lawfully amended.

ARTICLE IV MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

1. Membership: Each and every Owner of each and every Lot which is subjected to these Covenants shall automatically be, and must, at all times, remain a Member of the Association in good standing. Each and every Resident who is not otherwise an Owner may, but is not required to, be a non-voting Member of the Association. During the Development Period, the Association shall have two (2) classes of Members: Class A and Class B. The Class A Members shall include (i) all Owners other than the Declarant during the Development Period and (ii) all Residents not otherwise Owners who have properly and timely fulfilled all registration and related requirements prescribed by the Association. The Class B Member shall be the Declarant. Upon conclusion of the Development Period, the Class B membership shall terminate and the Declarant shall become a Class A Member.

2. Voting Rights: There shall be two (2) classes of voting Members during the Development Period:

Class A: The Owner of each Lot shall be entitled to one (1) vote per Lot. Where more than one (1) Owner owns and holds a record fee interest in a Lot such Owner may divide and cast portions of the one (1) vote as they may decide, but in no event shall any one (1) Lot yield more than one (1) vote.

Class B: The Class B Member shall have one (1) vote for each Lot it owns.

Any Owner, Resident or Member shall not be in "good standing" if such person or entity is (i) in violation of any portion of these Covenants, the Design Guidelines or any rule or regulation promulgated by the Board or (ii) delinquent in the full, complete and timely payment of any Annual Assessment, special assessment or any other fee, charge or fine which is levied, payable or collectible pursuant to the provisions of these Covenants, the Bylaws or any rule or regulation promulgated by the Board.

The Board may make such rules and regulations, consistent with the terms of this Declaration and the Bylaws, as it deems advisable, for (1) any meeting of Members, proof of membership in the Association, the status of good standing, evidence of right to vote, the appointment and duties of examiners and inspectors of votes, the procedures for actual voting in person or by proxy, registration of Members for voting purposes and such other matters concerning the conduct of meetings and voting as the Board shall deem fit.

**ARTICLE V
GENERAL PROVISIONS**

1. Each of the Lots in the Subdivision shall hereafter be used only for the construction of one single family residence thereon, including other appurtenant structures permitted under the terms hereof, with it being intended that no commercial use of any such Lots shall be permitted and, specifically, that no sign shall be placed on any such Lot indicating a commercial use thereof, and that such single family dwelling constructed on each Lot shall contain at least the minimum standards set forth in Article IV. No Lot shall be re-subdivided or split without the express prior written approval of the Architectural Review Committee. Any persons owning two or more adjoining Lots may consolidate those Lots into one building site only with the express prior written approval of the Architectural Review Committee.

2. Except as authorized below, no mobile homes, manufactured homes, modular homes or relocated homes may be placed or utilized on any Lot. One vacation travel home may be parked on a Lot not used as living quarters, provided it is kept in an area in back of the set-back line within a closed garage or other screened area that shields its view and provided such is approved by the Architectural Review Committee. It is specifically prohibited for a motor home, camper, boat, tractor or tractor trailer to be parked on the streets of the Subdivision or on the Lot unless parked within a closed garage or other screened area approved by the Architectural Review Committee.

3. No garage, storage building or temporary building constructed on any Lot in the Subdivision shall be used as living quarters, except that a detached guest house may be constructed thereon, provided it is built in conjunction with or after the main dwelling unit to which it is appurtenant, and provided that such guest house is approved by the Architectural Review Committee and complies with the provisions of Articles VI and XI.

4. Any fuel oil, propane or butane tanks shall be located under ground so as to not be viewable from the surface. All such installations shall be in compliance with local, county, state and federal permitting laws and environmental regulations.

5. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot. However, dogs, cats and other common household pets may be kept on Lots so long as they are not kept, bred or maintained for commercial purposes, and provided further that all dogs are kept penned or leashed. Nuisance dog barking is prohibited and cats allowed outside shall be neutered or spayed.

6. No firearms shall be discharged nor shall any hunting be done with any type of weapon within the Subdivision.

7. No part or portion of the Subdivision shall be used as a junk yard or as an area for the accumulation or scrap or materials and no part of the Subdivision shall be used for any purpose that is obnoxious or offensive to the Owners of the Lots in the Subdivision, nor shall anything be done in the Subdivision that becomes an annoyance or nuisance to the Owners of the Lots in the Subdivision.

8. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the Subdivision Plat. No utility company, water district political subdivision or any authorized entity using the easements herein referred to shall be liable for any damage done by them or their assigns, agents, employees or servants to property of the Owner situated within such easement. Wherever utility easements are shown and the Owner constructs a fence over said easement, the Owner shall construct a gate over said easement to allow access by the authorized entity using said easement.

9. No garbage or waste materials shall be kept except in sanitary containers. There shall be no burning or incinerating of trash, garbage, leaves, brush or other debris, unless prior notice is

provided the Comal County Fire Marshall and/or other appropriate fire protection agency. The trash pickup for the Subdivision shall be contracted for by the Association, said contract to be reviewed annually for renewal. However, the owner of each lot shall be responsible for the payments of the collection fee associated with the pickup of trash from such owner's respective lot.

10. No professional, business or commercial activity to which the general public is invited shall be conducted on any Lot.

11. No outside toilets or privies other than such required and used exclusively for construction workers engaged in new home construction shall be permitted on any Lot. All toilet facilities, kitchen sinks, washing machines, bathrooms and utility drains shall be connected to a sewage collection line meeting the approval of the county and state health authorities and complying with all regulations and shall be operated and maintained in such a manner as to not be obnoxious, offensive or to endanger the health or welfare of the occupants of the building site on which it may be located or any surrounding property.

12. Ham radio antennas, televisions antennas, earth satellite stations ("dish antennas") or other similar high towers or antennas shall not be allowed on any Lot nor shall be visible from the street without prior written approval of the Architectural Review Committee.

13. All property Owners shall maintain their Lots, whether vacant or occupied, so as to not become overrun with tall grass, heavy brush, rubbish or trash. If, in the opinion of the Architectural Review Committee, any Lot becomes so overrun with tall grass, brush, rubbish or trash so as to cause a nuisance in the Subdivision, the Homeowners Association is authorized to clean up said Lot at the expense of the property Owner. If said cleaning fee is not paid within 60 days from the date of said cleanup, the expense of the cleanup will become a lien on the property in favor of the Homeowners Association until paid and the Association shall be entitled to exercise all remedies, at law or in court to collect such sum and foreclose such claim.

14. It is agreed that this is a gated community. However, access will and must be provided for fire, sheriff, utilities, garbage, school buses and other necessary services (i.e. UPS, FedEx and any others that may be approved by the Board of Directors). The entry gate will remain open Monday thru Friday from 7:00 a.m. to 10:30 a.m. and from 2:00 p.m. to 5:00 p.m., with both gates to be closed on the weekends.

15. No overnight parking of any vehicle, boat or trailer shall be permitted on any street within the Subdivision. No Owner shall repair or restore any automobile, truck, camper, boat trailer, recreational vehicle, aircraft or other vehicle on any portion of any Lot, unless it is totally enclosed and unseen from the street or any other Lot, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. No Owner shall park a vehicle on his driveway in such a manner that the vehicle extends into the street. Any truck (excluding 1 ton, 3/4 ton and 1/2 ton conventional pickups), bus, boat, boat trailer, trailer, mobile home, golf cart, motorcycle, recreational vehicle, camper and any vehicle other than a conventional automobile shall, if brought within the Subdivision by or on behalf of any Owner, Member or Resident, be stored, placed or parked within the enclosed garage on the appropriate Lot unless otherwise directed by the Architectural Review Committee.

ARTICLE VI ARCHITECTURAL PROVISIONS

1. **Living area size:** No dwelling shall be constructed on any Lot within that does not meet the following minimum square footage requirement, excluding garages, porches and breeze ways.

- a) If a single story structure, 2,200 square feet of living area.
- b) If a one and a half or two story structure, 2,600 square feet of living area, with the first floor containing a minimum of 1,800 square feet.

The square footage requirements set forth above shall be calculated from the heated living floor space and shall specifically exclude porches, open breeze ways and garages, whether attached or detached, provided that the Architectural Review Committee shall have the right, power and authority to reduce such minimum floor area requirement when, in the committee's reasonable discretion, would not be detrimental to the harmony and plan of development of the Subdivision.

2. **Building construction:** All dwelling units, detached garages and accessory buildings hereafter constructed in the Subdivision shall be constructed in a good and workman like manner with the use of new materials and in such a way as to present a neat and attractive appearance thereof. Site cleanliness is mandatory along with a dumpster and port-o-potty at time of construction. IT SHALL BE PROHIBITED for any tract owner to move into a new dwelling unit prior to the dwelling's completion. The Architectural Review Committee shall inspect each new dwelling to determine if a dwelling is completed, should such a question arise.

3. **Slabs:** No more than 30" in height of exposed foundation will be allowed.

4. **Masonry requirement:** The exterior walls of all main dwellings, exclusive of doors, windows and fixed glass shall be constructed of brick, stone, rock, troweled in place stucco, wood or cementitious board (hardi plank, etc.); provided however, that at least 75% of every exterior wall shall be masonry. Cementitious board is defined as not being masonry. Regarding stucco walled homes, no more than 20% of every exterior wall shall be stucco. Variances may be granted by the Architectural Review Committee for individual walls including up to 100% of the exterior walls on a case by case basis.

5. **Roofs and roofing materials:** Roofs shall have a pitch of 6:12 degrees or greater. No flat roofs will be permitted unless specifically approved by the Architectural Review Committee. All roof coverings shall be made of slate, tile, metal or 240 lb. asphalt dimensional shingles or such other materials as approved in advance by the Architectural Committee. No wood shingles shall be permitted.

6. **Exterior Walls:** The color of the exterior finish is suggested to be in earth tones and must be approved by the Architectural Review Committee.

7. **Garages:** Any residence constructed on a Lot shall be required to have a fully enclosed two (2) car garage constructed with design and materials consistent with the main residence construction. No garage door shall face any street.

8. **Driveways:** All driveways shall be paved with concrete, brick or masonry pavers.

9. **Accessory building, greenhouses and children playhouses:** Pre-manufactured or kit built units for accessory buildings, greenhouses and children's playhouses may be permitted but first must be approved by the Architectural Review Committee as to character and its location on the Lot.

10. **Setbacks:**

- a) All improvements shall be constructed only in accordance with the greater of the building setback lines indicated on the Subdivision Plat for the Subdivision or this Article IV; Except as authorized in paragraph 11 below ("Fences"), in no case shall any improvement other than landscaping plant material, walkways and irrigation systems be

constructed nearer than (i) 50 feet to any lot line abutting Country Estates Drive, as shown on the Plat, (ii) 40 feet to any lot line abutting any other street within the Subdivision, as shown on the Plat, (iii) 15 feet to any side lot line which does not front a street and (iv) 30 feet to any rear lot line (excluding accessory buildings, cabanas, decks, fences, pools, etc., as may be approved by the Architectural Review Committee). In the event of any question as to whether a particular lot line constitutes a "side lot line" or a "rear lot line", such question shall be decided by the Architectural Review Committee, whose decision shall be final.

- b) Within the setback areas for each Lot and subject to the construction or installation of any other items otherwise permitted, a non-exclusive surface easement and right-of-way is reserved for the Association in order to properly facilitate and carry out its duties and responsibilities under this Declaration.
- c) The Architectural Review Committee may grant a variance to the foregoing setback restrictions in cases where necessary to permit a unique architectural design or to attempt to conserve native trees.

11. **Fences:** No fence or wall over six feet (6') in height measured from the ground on which it stands shall be constructed or maintained on any Lot. Fences may be constructed along and adjacent to the property line except that no fence shall be constructed so as to extend forward of the front of the house. All fences shall be constructed of brick, stone, concrete, stucco, iron or a combination of the foregoing. However, no fences described as cyclone, solid wood privacy or metal cloth fencing shall be permitted in the Subdivision. The design and material of construction for any fencing must be submitted to and approved by the Architectural Review Committee prior to start of construction. **EXCEPTION:** The fence located along the rear property line of Lots 4 through 13, inclusive, Block 7, Texas Country Estates, Unit Two (these lots border FM 306) shall be constructed of materials identical to those materials used on the lots located in Texas Country Estates, Unit One that border FM 306 so that the appearance of the entire fence line of all units of Texas Country Estates that back up to FM 306 are uniform and identical.

12. **Pools:** The design plans and materials used in the construction of a swimming pool and/or spa, including its surrounding fencing, must be submitted to and approved by the Architectural Review Committee prior to the start of said construction. Within 30 days of completion of said construction, a properly secured fence not to be less than forty-two inches (42") nor greater than six feet (6') in height must be in place.

13. **Lighting:** Any exterior lighting and particularly with reference to security or trouble lights such as those normally installed by a public utility or purchased by an individual, shall be installed in a manner so as to not create a horizontal exposure, but rather to be shielded in order to cast light upwards or downwards in a manner to not create problems for neighboring Lots or the neighborhood generally.

14. **Time of construction:**

- a) The entire exterior of all dwelling units constructed in the Subdivision, together with the driveways, sidewalks and other exterior appurtenances thereto, must be completed within twelve (12) months after the commencement of work thereon or the placing of materials therefor on such Lot, whichever occurs earliest, with the exception that thirty (30) day extensions for completion of construction may be granted by the Architectural Review Committee upon application thereof.

- b) Accessory buildings, detached garages, guest houses and other improvements may be constructed simultaneously with the main dwelling structure, but shall not precede the start of construction for the main dwelling. Construction of all accessory uses visible from a street must be completed within twelve (12) months of receiving approval to start from the Architectural Review Committee.

15. **Landscaping/Ground Cover:** In order to further water conservation, it is suggested lawn areas be planted with drought tolerant grasses or other drought tolerant ground cover. It is encouraged that portions of the landscape be left natural. There must be minimal landscaping covering the front foundation of the residence installed prior to the expiration of twelve (12) months from the purchase of the subject lot.

16. **Trees:** No live oak tree over ten inches (10") caliper or elm tree over eight inches (8") caliper will be removed from any Lot. By written request to the Architectural Review Committee, an Owner can ask for additional trees to be removed. If no trees are present in the front yard of the lot, there shall be at least three (3) Texas native trees planted in the front yard, each tree to be at least three (3") caliper inches in width.

17. **Yards and Lot Maintenance:** No lot shall have more than 40% impervious cover (ie. house, driveways, swimming pool, etc.) The Owner or occupants of all Lots shall, at all times, create and retain a grading plan for his particular Lot so as not to change the direction, velocity, amount and/or quality of drainage flow onto his Lot or onto his neighboring Lots or streets.

18. **Sight Distance at Intersections:** No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two feet (2') and six feet (6') above the roadways shall be placed or permitted to remain on any corner Lot with the triangular area formed by the street property lines and a line connecting them a point twenty-five feet (25') from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

ARTICLE VII OWNER'S OBLIGATION TO REBUILD

If all or any portion of a residence or any other structure is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner thereof, with all due diligence, to rebuild, repair or reconstruct such residence or structure in a manner which will substantially restore it to its appearance and condition as it existed immediately prior to the casualty, or to clear the Lot of all debris and restore it to its original condition prior to such destruction. Reconstruction, if any, shall be undertaken within three (3) months after the damage occurs and shall be completed within six (6) months after damage occurs.

ARTICLE VIII WATER POLLUTION ABATEMENT PLAN

All Lots and property which comprise a part of the Subdivision are subject to the Water Pollution Abatement Plan which has been submitted to and reviewed by the TCEQ regarding required pollution abatement activities for construction activities on the recharge zone of the Edwards Aquifer. If any solution openings (such as caves or pipes), sinkholes or other significant recharge areas are discovered on any Lot during the course of construction activity, the Owner shall immediately notify Declarant and the District 8 Office of the TCEQ in San Antonio, Texas, to determine if protective construction measures may be necessary.

**ARTICLE IX
PROCEDURES AND ADMINISTRATION PRIOR TO ANY CONSTRUCTION**

Prior to the commencement of construction of any single family dwelling, detached garage, storage buildings, fences, guest houses or other out buildings on any Lot in the Subdivision, plans and specifications (including materials) therefor, including a site plan showing the proposed location thereof, must be submitted to the Architectural Review Committee hereinafter provided for, and the written approval thereof procured from such Committee. In connection therewith, each Lot Owner is herewith advised that the construction of any such single family dwelling, detached garage, storage buildings, fences, guest houses or other out buildings on any Lot in the Subdivision without the prior approval of such Architectural Review Committee shall be conclusively presumed to be in violation of these restrictions. The Architectural Review Committee, in furtherance of a uniform plan for the development of such Subdivision, shall be vested with the authority to control the location and type of construction of any such single family dwelling, detached garage, storage buildings, fences, guest houses or other out buildings in the Subdivision in order to insure the development of the Subdivision in an orderly manner and in compliance with this Declaration of Covenants, Conditions and Restrictions. Notwithstanding the foregoing however, it is expressly understood that the failure of the Architectural Review Committee to give written notification of its disapproval of any such plans and specifications for any such improvements within forty-five (45) days after receipt thereof, shall be deemed for all purposes under the provisions hereof as approval thereof. Any Lot Owner who claims approval by the Architectural Review Committee's failure to act shall have written proof of the date the plans were received by the Architectural Review Committee.

**ARTICLE X
EASEMENTS AND TELECOMMUNICATION SERVICES**

1. Utility Easements: Non-exclusive easements for installation, maintenance, repair and removal of utilities and drainage facilities over, under and across an area not less than two feet (2') nor more than five feet (5') wide along and inside the perimeter of each Lot are reserved by Declarant for itself, the Association and all utility and CATV companies and their respective successors and assigns, serving the Subdivision and no improvement or structure shall be constructed or placed thereon without the express prior written consent of the Architectural Review Committee. Full rights of ingress and egress shall be had by Declarant, the Association and all utility and CATV companies serving the Subdivision, and their respective successors and assigns, at all times over the Subdivision for the installation, operation, maintenance, repair or removal of any utility together with the right to remove any obstruction (excluding however, any driveway, fence or other improvement or structure which as been theretofore specifically approved by the Architectural Review Committee, that may be placed in such easement that would constitute interference with the use of such easement, or with the use, maintenance, operation or installation of such utility.

2. Telecommunication Services: The Association, with the prior approval of the Board of Directors, may provide, either directly or by contracting with other parties, various telecommunication services, including but not limited to, telephone and CATV, to the Lots and Common Facilities within the Subdivision. The Board of Directors shall have the sole discretion to determine whether or not such telecommunication services are provided, the types of services to be provided, the manner in which such services will be provided, the amounts to be charged and the method of paying for such services. The amounts charged for such services shall not exceed those authorized or required by any regulatory authority with jurisdiction over such matters.

**ARTICLE XI
ARCHITECTURAL REVIEW COMMITTEE
PLAN APPROVAL, VARIANCES AND AMENDMENTS**

1. The Directors of the Homeowners Association shall appoint an Architectural Review Committee consisting of three (3) people that may or may not be Members of the Homeowners Association. Removal from the Architectural Review Committee shall be at the discretion and pleasure of the Directors of the Association. Prior to starting construction of any single family dwelling, detached garage, guest house, storage building, fencing, swimming pools, spas and tennis courts or any other improvements to the Lot, the Owner applicant shall submit an application form and a complete set of construction plans and specifications for review and approval by the Architectural Review Committee. The construction plans must be drawn to 1/4"= 1'0" scale, while the site plan may be drawn at any convenient engineer's scale. The construction plans shall include a foundation plan, a floor plan for each floor, a minimum of four elevations and if available a section view. The plans shall be noted to provide the tract size, square footage of living area by floor, exclusive of porches, breeze ways and garage. The applicant shall also provide a description of materials, finish and colors of all exterior building components. The site plan shall show all existing and proposed improvements in relation to front, rear and side yard requirements as recorded on the plat. All architectural plans and buildings in the Subdivision shall comply with all applicable laws and building codes as well as with the general and special restrictions herein and any variance therefrom shall be subject to the prior written approval of the Architectural Review Committee.

2. The hours of operation for any construction within the Subdivision will be as follows: Monday through Saturday from 7:00 a.m. until sunset; Sundays and legal Holidays only with the written permission of the Architectural Review Committee.

3. It is the desire of the Declarant that the Subdivision retain as much of its rural setting as possible. Thus, it is urged that tract Owners retain wide areas of native wildlife habitat along side and rear setback lines.

4. The Architectural Review Committee retains the right, in furtherance of a uniform plan for the development of Subdivision, to grant variances from the Covenants, Conditions and Restrictions on an individual case basis if such variance is for the purpose of promoting a unique architectural design, the conservation of native trees or other identified hardship that may be unique to the Lot in question.

**ARTICLE XII
RIGHTS and REMEDIES**

1. This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the Subdivision. The covenants, conditions and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Directors of the Homeowners Association, or the Owner of any Lot subject to the restrictions in this Declaration, and their respective legal representatives, heirs, successors and assigns. It is further expressly understood that the undersigned, the Architectural Review Committee or any one or more of the Owners of a Lot in the Subdivision shall have the right to enforce the covenants, conditions and restrictions by obtaining an injunction in order to prevent a breach of any of the covenants, conditions and restrictions or to enforce the observance thereof, which remedy, however, shall not be exclusive. The undersigned, the Architectural Review Committee or any other person or persons owning a Lot in the Subdivision injured by virtue of the breach of the covenants and use limitations herein provided for in the Subdivision shall accordingly have their remedy for the damage suffered by any of them as a result of any breach, and in connection therewith it is understood that in the event of a breach of these covenants, conditions and restrictions and use limitations by the Owner of any Lot or Lots in the Subdivision, it will be

conclusively presumed that the other Owners of Lots in the Subdivision have been injured thereby. It is further expressly understood that the undersigned shall continue to have the right to enforce the covenants, conditions and restrictions and use limitations after all property has been sold by it, but shall not at any time have any obligation to do so. It is understood that all expenses, attorney's fees and court costs incurred in connection with the enforcement of such covenants, conditions and restrictions and use limitations shall be advanced by the party or parties seeking to enforce the same, and that the undersigned, or the Architectural Review Committee, shall have no obligation to advance such expense, although they may contribute to such expenses if they so desire.

2. The Architectural Review Committee and/or the Board of Directors of the Homeowners Association, as may be determined by the Board of Directors of the Association, shall have the right (i) to receive complaints regarding violations of this Declaration, the By-Laws or any Rules and regulations adopted by the Association and (ii) to hold hearings to determine whether to discipline Owners who violate this Declaration, the By-Laws or the Rules and Regulations.

3. Each Grantee, by the acceptance of a deed conveying a Lot to such Grantee, acknowledges and agrees that the violations of these covenants, conditions and restrictions will damage the Association and other Lot Owners in an amount that cannot be determined with certainty. If a Lot Owner who is violating the covenants, conditions and restrictions continues to do so after having received written notice of the violation and an opportunity to cure such violation within a period of time designated by the Architectural Review Committee or Board of Directors of the Association ("Cure Period"), which Cure Period, which amount shall be not less than ten (10) calendar days, such Lot Owner shall be obligated to pay an amount of \$25.00 per day for each day a violation occurs following the expiration of the Cure Period, which amount shall be paid to the Association to partially defray the damages caused by the breach of the covenants. The duty to pay such amount shall not be deemed an authorization of a continued violation and shall not impair the right of the Association, or any Lot Owner, to obtain an injunction to enforce the covenants, conditions and restrictions and to enjoin and restrain any further violation thereof, which remedy it is acknowledged and agreed is the only adequate means of protecting the Lot Owners in the Subdivision. Any payments of \$25.00 per day shall not limit, nor be deemed a satisfaction of, the actual damages caused by the violation.

4. The Declarant, the Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions and reservations imposed by this Declaration.

5. The failure to enforce any of the covenants, conditions and restrictions shall not be deemed a waiver of the right of enforcement either with respect to the violation in question or any other violation. All waivers must be in writing and signed by the party to be bound to be effective. Each Lot Owner, by his acceptance of a deed to a Lot in the Subdivision, is deemed to covenant and agree that his title to the Lot is subject to these covenants, conditions and restrictions and that such Lot Owner is obligated to pay to the Association, all its annual assessments, capital improvement assessments, utility charges, damage assessments and any other monies due and owing to the Association under this Declaration ("Monetary Obligations"). All of such Monetary Obligations, plus interest and costs of collection, including reasonable attorney's fees, shall be a charge on the land and shall be secured by a continuing lien upon the Lot against which the Assessments or Charges are made. The Association may enforce such lien either by a suit to foreclose such lien, or through a non-judicial foreclosure in accordance with the provisions of Texas Property Code Ann. §51.02, and any subsequent laws defining a right of non-judicial foreclosure. In order to exercise such right of non-judicial foreclosure, the Board of directors of the Association shall designate a Trustee in writing from time to time to post notices or cause to be posted the notices required by law and to conduct any non-judicial foreclosure sales and each Owner, for the purpose of better securing each and all monetary obligations described within these Covenants, and in consideration of the benefits received and to be received by virtue of the ownership of such Owner's Lot, has granted, sold and conveyed and by these covenants, does grant, sell and convey unto the Trustee so designated by the Association, such Owner's Lot, in trust, to secure payment of each

and all assessments and other obligations prescribed by these Covenants to and for the benefit of the Association as the Beneficiary.

6. If any controversy, claim or dispute arises relating to these Declarations, the breach thereof or the enforcement thereof, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees and costs.

ARTICLE XIII COVENANTS FOR MAINTENANCE ASSESSMENTS

1. **Creation of the Lien and Personal Obligation of Assessments.** The Declarant, for each Lot owned by them within the Properties, hereby covenant, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay or reimburse the Association of the Declarant: (i) monthly assessments or charges; (ii) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided and (iii) any other amounts due pursuant to this Declaration. The annual assessments, special assessments and any other amounts due pursuant to this Declaration, together with such interest thereon and costs of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment and/or charge is made. Each such assessment and/or charge, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time the obligation occurred.

2. **Purpose of Assessments:** The assessments levied by the Association shall be used for the purpose of promoting the recreation, health, safety and welfare of the Members and in particular, for the improvement, maintenance and operation of the Common Facilities, services and facilities devoted to this purpose and related to the use and enjoyment of the properties by the Members.

3. **Basis and Maximum of Annual Assessments:** The annual assessments for both improved and unimproved Lots shall be determined by the Board of Directors in the manner provided for herein after determination of current maintenance costs and anticipated needs of the Association during the year for which the assessment is being made, with a late charge of ten percent (10%) per annum of the amount of the assessment if payment is not received before January 31 of the year it actually becomes due, the annual due date being January 1. The initial annual assessment per tract shall be ~~\$420.00~~ per year on improved Lots. In no event, however, shall the annual assessment for unimproved Lots ever exceed fifty percent (50%) of annual assessment for improved Lots. No assessment shall be due by the Declarant or professional builder owner until the property owned by such owner is converted to an "improved Lot" by new owner. Furthermore, Common Facilities and all lands contained in the streets, parks, common facilities and other public places open to the public for the common use of the owners or residents of the land within the Properties shall not be subject to an annual assessment. Declarant or professional builder owners shall owe no fees on any of the property described herein during the period of their ownership. Upon sale, the new owners shall be liable for the payments of fees, commencing from the date of purchase. The amount of the annual assessment may be increased each year by the Association by not more than fifteen percent (15%) above the amount of the assessment for the previous year. Such assessment may be increased by more than fifteen percent (15%) above the assessment for the previous year only upon the written assent of a majority of the Owners.

4. **Special Assessments for Capital Improvements:** In addition to the annual assessments provided for in paragraph 3 above, the Association may levy, in any assessment year, a Special Assessment on improved Lots only, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any constructions, reconstruction, repair or replacement of a capital improvement

on or which is a part of the Common Facilities, including but not limited to mail box station garbage collection, entry gates, roads and perimeter fencing along side Country Estates Drive, provided the assessment shall have the written assent of two-thirds (2/3) of the Owners.

5. **Duties of the Board of Directors:** In December of each year, the Board of Directors of the Association shall fix the amount of the annual assessment against each Lot for the following year and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept by the President and/or the Secretary of the Association and shall be available for inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto. The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid.

6. **Effect of Non-Payment of Assessments: The Lien: Remedies of the Association:** If the assessment is not paid on or before February 15th of the year it becomes due, such assessment shall become delinquent and shall, together with interest and cost of collection, become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. If the assessment is not paid within thirty (30) days after the delinquency date, the assessments shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum, but in no event to exceed the maximum allowed by law, and the Association may bring an action at law against the Owner to pay the same or to record a lien against the property, and there shall be added to the amount of such assessment all reasonable expenses of collection including the costs of preparing and filing the complaint, reasonable attorney's fees and costs of suit.

7. **Subordination of the Lien to Mortgages:** The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereinafter placed upon the Lots subject to assessment, provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the sale or transfer of such Lot pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such Lot from liability for any assessment.

8. **Exempt Property:** The charges and liens created herein shall apply only to the Lots and improvements thereon and shall not apply to exempt personal property.

ARTICLE XIV DURATION AND AMENDMENT

1. These Covenants, Conditions and Restrictions herein shall be effective until January 1, 2024, after which time said Covenants, Conditions and Restrictions shall be automatically extended for successive terms of ten years each, unless by a vote of three-fourths of the Owners of Lots in the Subdivision taken prior to the expiration of the primary term, or of any current extended period, and filed for record in the Deed Records of Comal County, Texas, such Lot Owners agree that these restrictive Covenants and use limitations shall terminate on an earlier date, whether during the primary term or during any extended term.

2. Invalidation of any one of these covenants, conditions and/or restrictions by judgment or court order shall in no way affect any other provision, and all other provisions shall remain in full force and effect. Failure to enforce any covenant, conditions and/or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

3. The Covenants set forth herein are expressly subject to change, modification and/or deletion by means of amendment at any time and from time to time as provided herein. Notwithstanding paragraph 1 of this Article XIV, these Covenants may be amended and/or changed in

part as follows:

- a) During the Development Period, and in response to any governmental or quasi-governmental suggestion, guideline, checklist, requisite or requirement, particularly with respect to those entities or agencies directly or indirectly involved in, or having an impact on, mortgage financing, mortgage insurance and/or reinsurance, the Declarant shall have the complete and unfettered right and privilege to amend, change, revise, modify or delete portions of these covenants, and each and every Owner, Member and Resident specifically and affirmatively authorizes and empowers the Declarant to undertake, compete and consummate any and all such amendments, changes, revisions, modifications or deletions as Declarant, in its sole and absolute discretion, shall deem reasonable and appropriate.
- b) During the Development Period the Declarant may otherwise amend or change these Covenants by exercising its powers granted in Article XVI, Section 1 herein below or with the direct consent of at least fifty-one percent (51%) of the Owners of Lots within the Subdivision; and
- c) From and after conclusion of the Development Period these Covenants may be amended or changed upon the express written consent of the Board of Directors and at least fifty-one percent (51%) of the Owners of Lots with the Subdivision.
- d) Any and all amendments shall be recorded in the public real property records of Comal County, Texas.

**ARTICLE XV
PROPERTY SUBJECT TO THIS DECLARATION**

1. Existing Property. The residential lots which are, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration are with Texas Country Estates, Unit Two.
2. Additions to Existing Property. Additional land(s) may become subject to this Declaration, or the general scheme envisioned by this Declaration, as follows:
 - a) The Declarant may (without the consent of any person or entity) add or annex additional real property to the scheme of this Declaration within the Development Period by filing of record an appropriate enabling declaration, generally similar to this Declaration, which may extend the scheme of the Covenants to such property. Provided further however, such other declaration(s) may contain such complementary additions and modifications of these Covenants as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the concept and purpose of this Declaration.
 - b) In the event any person or entity other than the Declarant desires to add or annex additional Assessable Property and/or Common Property to the scheme of this Declaration, such annexation proposal must have the express written approval of the Board of Directors.

Any additions made pursuant to this Section 2, when made, shall automatically extend the jurisdiction, functions, duties and membership of the Association to the properties added and correspondingly subject the properties added to the covenants of the enabling declaration. Upon any merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law or by lawful articles of agreement of merger, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law or by lawful articles or agreement of merger, be added to

the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Covenants established by this Declaration, together with the covenants and restrictions established upon any other properties, as one scheme.

**ARTICLE XVI
MISCELLANEOUS PROVISIONS**

1. Power of Attorney. Each and every Owner, Member and Resident hereby makes, constitutes and appoints Declarant as his/her true and lawful attorney-in-fact, coupled with an interest and irrevocable, for him/her and in his/her name, place and stead and for his/her use and benefit, to do the following ONLY DURING THE DEVELOPMENT PERIOD:


- a) to exercise, do or perform any act, right, power, duty or obligation whatsoever in connection with, arising out of, or relating to any matter whatsoever involving this Declaration and the Properties;
- b) to sign, execute, acknowledge, deliver and record any and all instruments which modify, amend, change, enlarge, contract or abandon the terms within this Declaration, or any part thereof, with such clause(s), recital(s), covenant(s), agreement(s) and restrictions(s) as Declarant shall deem necessary, proper and expedient under the circumstances and conditions as may be then existing; and
- c) to sign, execute, acknowledge, deliver and record any and all instruments which modify, amend, change, enlarge, contract or abandon the subdivision plat(s) of the Properties, or any part thereof, with any easements and rights-of-way to be therein contained as the Declarant shall deem necessary, proper and expedient under the conditions as may then be existing.

The rights, powers and authority of said attorney-in-fact to exercise any and all of the rights and powers herein granted shall commence and be in full force upon recordation of this Declaration in the Comal County Clerk's office and shall remain in full force and effect thereafter until conclusion of the Development Period.

2. Further Development. During the Development Period, each and every Owner, Resident and Member waives, relinquishes and shall not directly or indirectly exercise any and all rights, powers or abilities, and the Association shall not devote or expend any monies or personnel, regarding the following: to contest, object, challenge, dispute, obstruct, hinder or in any manner disagree with the proposed or actual development (including, without limitation, zoning or re-zoning efforts or processes) pertaining to residential uses of any real property owned by the Declarant or by the affiliates, assignees or successors of the Declarant within a quarter-mile radius of the Subdivision.

EXECUTED this 1st day of May, 2008.

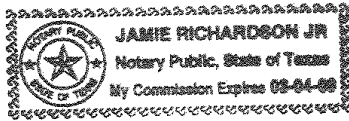
TEXAS COUNTRY ESTATES, LTD.,
a Texas Limited Partnership

By 
William Lowman, II, President of
Texas Country Development, Inc.,
General Partner

STATE OF TEXAS §

COUNTY OF COMAL §

This instrument was acknowledged before me on the 1 day of May, 2008,
by William J. Lowman, II, as the act and deed of said Corporation.



Jamie Richardson Jr
Notary Public, State of Texas

Filed and Recorded
Official Public Records
Joy Streater, County Clerk
Comal County, Texas
05/02/2008 02:05:06 PM
CASHTWO
200806017211



Joy Streater