

**FIFTH AMENDED AND RESTATED DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR MEDLIN CREEK**

STATE OF TEXAS §

COUNTY OF HAYS §

This Fifth Amended and Restated Declaration of Covenants, Conditions and Restrictions for Medlin Creek (this "**Declaration**") is made to be effective the date set forth below by Barton Bend, LP, a Texas limited partnership ("**Declarant**").

RECITALS:

A. By Fourth Amended and Restated Declaration of Covenants, Conditions and Restrictions recorded in Document #17012198 of the Official Public Records of Hays County, Texas (the "**Fourth Amended and Restated Declaration**"), Declarant imposed certain covenants, conditions and restrictions upon certain tracts of land in Hays County, Texas, as more particularly described on Exhibit A attached hereto (the "**Property**"), which Fourth Amended and Restated Declaration superseded and replaced all prior restrictions on the Property as provided therein.

B. By Deed of record in Instrument #16034486 of the Official Public Records of Hays County, Texas, Medlin Creek Ranch, Ltd., a Texas limited partnership, being the Declarant in the Second Amended and Restated Declaration, sold 262.4 acres out of the Property to Declarant, and by Assignment of Rights of Declarant Under Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Medlin Creek recorded in Instrument #16034488 of the Official Public Records of Hays County, Texas (the "**Assignment of Declarant Rights**"), Medlin Creek Ranch, Ltd. made Barton Bend, LLC the Declarant.

C. Section 4.03 of the Fourth Amended and Restated Declaration provides that the Fourth Amended and Restated Declaration may be amended by Declarant with the written approval of the Owners of a majority of the Property.

D. Declarant is the Owner of more than a majority of the Property, and desires to amend the Fourth Amended and Restated Declaration in its entirety as set forth herein and to supersede and replace the Fourth Amended and Restated Declaration with this Declaration.

NOW THEREFORE, Declarant hereby declares (i) that all of the Property shall be held, sold, conveyed and occupied subject to the following restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and same shall be binding on all parties having any right, title, or interest in or to the Property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof; and (ii) that each contract or deed which may hereafter be executed with regard to the Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to the following covenants, conditions and restrictions, regardless of

whether or not the same are set out or referred to in said contract or deed. It is expressly intended and declared that this Declaration shall be substituted for all purposes in place of the Fourth Amended and Restated Declaration, and the Fourth Amended and Restated Declaration is hereby merged into this document and shall have no further force and effect; provided, however, the priority of this Declaration shall relate back to the filing of the Fourth Amended and Restated Declaration.

ARTICLE I DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in this Declaration shall have the meanings hereinafter stated:

1.01 ACC. "ACC" shall mean the Architectural Control Committee charged with reviewing and approving plan and specifications for Improvements to be constructed within the Property pursuant to Article VI of this Declaration.

1.02 Association. The "Association" shall mean the Property Owners Association for Medlin Creek Ranch, Inc., pursuant to Article V of the Declaration.

1.03 Declarant. "Declarant" shall mean and refer to Barton Bend, LP, a Texas limited partnership, and its successors and assigns so long as the same own any interest in any part of the Property; provided, however, that an assignment of the rights of Barton Bend, LP as Declarant hereunder must be expressly set forth in writing, and the mere conveyance of a portion of the Property without the express written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder.

1.04 Declarant Control Period. The "Declarant Control Period" shall be the period in which Declarant is the Class B Member as defined in Section 5.02 of the Declaration

1.05 Declaration. "Declaration" shall mean this Third Amended and Restated Declaration of Covenants, Conditions and Restrictions for Medlin Creek, as it may be amended or supplemented from time to time.

1.06 Improvement. "Improvement" shall mean every Structure and all appurtenances thereto of every type and kind, including but not limited to residences, buildings, out buildings, storage buildings, garages, barns, corrals, patios, tennis courts, swimming pools, fences, screening, walls, retaining walls, stairs, decks, landscaping, driveways, dams, excavation, poles, signs, exterior air conditioning equipment, water softener equipment, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennae, towers, satellite dishes and similar facilities used in connection with water, sewer, gas, electric, telephone, television, internet or other utilities.

1.07 Lot. "Lot" shall mean any individual lot in any subdivision plat of any portion of the Property or any other portion of the Property conveyed by metes and bounds or otherwise by a deed to a third party or any portion of the Property covered by an executory contract or contract for deed with a third party, together with all Improvements located thereon.

1.08 Owner/Owners. "Owner" shall mean and refer to Declarant and the record owner, whether one or more Persons, of legal title to any Tract or other portion of the Property, and "Owners" shall refer collectively to Declarant and all of the record owners or legal title to all of the Tracts and other portions of the Property. The term "Owner" shall include the purchaser of a Tract under an executory contract for sale of real property, and the term "Owners" shall include collectively all purchasers of all Tracts covered by an executory contract for sale of real property. The terms "Owner" and "Owners" shall not include a person or entity, or persons or entities, who hold an interest in any Tract merely for the security of the payment of any debt or the performance of an obligation. If any Tract is leased, the term "Owner" or "Owners" shall include tenant and tenants, respectively, of any Tract or Tracts.

1.08 Person. "Person" shall mean an individual or a corporation, partnership, limited partnership, limited liability company, business trust, trust, association or other organization, estate, government or governmental subdivision or agency or any other legal entity.

1.09 Property. "Property" shall mean the real property which is more particularly described by Exhibit "A" which is attached hereto and made a part hereof.

1.10 Structure. "Structure" shall mean anything erected, constructed, placed, laid or installed in, on, or over any portion of the Property, the use of which requires a location on or in the ground but not including vegetation, trees, shrubs, or plantings.

ARTICLE II PURPOSE

The Property is hereby encumbered by the covenants, conditions, and restrictions hereinafter set forth to insure the best and highest use and the most appropriate development and improvement of each Lot within the Property for residential and agricultural purposes; to protect the Owners of Lots against the improper use of surrounding Lots; to preserve, so far as practicable, the natural beauty of the Property; to guard against the erection of poorly designed or poorly proportioned structures of improper or unsuitable materials; to encourage and secure the erection of attractive, appropriately located improvements on each Lot; to prevent haphazard and inharmonious improvement of the Lots; to secure and maintain the proper use of easements within the Property; to preserve the lines of sight and views from the Lots; and, in general, to protect the investment made by Owners in purchasing Lots in the Property.

ARTICLE III GENERAL USE RESTRICTIONS

All of the Property shall be owned, held, encumbered, leased, used, occupied and enjoyed by Owners, tenants, occupants and users of the Property and all other persons subject to the following limitations and restrictions:

3.01 Uses of Property. The Property shall be used only for detached single family residences or for agricultural and wildlife management purposes. No duplexes, townhouses,

apartments or condominiums shall be constructed on any Lot. No more than one single family residence may be constructed on a Lot. A guest house or other similar single family structure of a minimum of 750 square feet and a maximum of 1500 square feet may be permitted, if expressly approved by the ACC, as evidenced by a memorandum signed by a member of the ACC of such approval recorded in the Official Records of Hays County, Texas. The cost of preparation and recording of the memorandum shall be paid by the applicant. Nothing contained herein shall be deemed to prevent the leasing of all of a Lot to a single person or family from time to time by the Owner thereof, subject to all the provisions of this Declaration. No Owner shall occupy or use his Lot or any Improvements constructed thereon, or permit the same or any part thereof to be occupied or used for any purpose other than as a private residence for the Owner, his family, guests and tenants which excludes use of the Lot or Improvements for manufacturing, trade, business, commerce, industry, or other occupation whatsoever other than a home office which does not accept invitees, clients, or customers. Certain large lots within the Property may meet the requirements of the State of Texas and Hays County to retain a Wildlife Management Use tax exemption on the Lot. Requirements by the State or County for such Lots to maintain this use exemption shall be deemed permitted uses for the Property under this Declaration. Use of a residence as a "Model Home" by Declarant or a home builder shall be deemed a permitted use.

3.02 Vehicles. Up to a maximum of three automobiles and/or pickup trucks that are 3/4 ton or smaller may be parked on the driveway or kept on any portion of the Lot as to be visible from an adjacent Lot or from private or public roads; however, in no event shall any truck (other than pickup trucks not larger than 3/4 ton), trailer, boat, tractor, motor home, camper, recreational vehicle, van, motorcycle, commercial vehicle, construction equipment or other motorized vehicle be parked on the driveway or any portion of any Lot as to be visible from adjacent Lots or from private or public streets or roads. No inoperable automobile, truck, boat, motor home, camper, recreational vehicle, van, motorcycle, commercial vehicle, tractor, construction equipment or other motorized vehicle shall be stored or kept for the purpose of repair on any Lot, and no repair or maintenance work shall be done on any of the foregoing except in enclosed garages or other enclosed Structures. No automobile, truck or any other vehicle of any kind that are not licensed, inspected, and insured may be kept outside an enclosed garage or other enclosed Structure. No automobile, truck, boat, trailer, motor home, camper, recreational vehicle, van, motorcycle, commercial vehicle, tractor, construction equipment or other motorized vehicle may be parked overnight on any public or private street or road within the Property or adjacent to the Property.

3.03 Burning. No trash or debris may be burned on the Property. Brush may be burned only in strict compliance with all applicable laws, rules and regulations.

3.04 Nuisance. No part of any Lot shall be used for the sale or display of any articles, the storage of junk, or any activity that shall constitute a public or private nuisance. No Owner of any Lot shall use or allow the use of such Lot or any building or structure thereon for any purpose which will be noxious, offensive, or detrimental to the other Lots or which will create or emit any objectionable, offensive, or noxious odors, smoke, dust, gases, fumes, or other such material or which will in any manner violate this Declaration. Additionally, no noise shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or its Owners or occupants. Motorcycles, four wheelers and other gasoline-powered recreational vehicles may not be operated on the Property except on public or

private streets and roads. No activity shall be carried on upon any Lot within the Property which might reasonably be considered to annoy neighbors of ordinary sensibilities and which might be calculated to reduce the desirability of the Property as a residential neighborhood, even though such activity may be in the nature of a hobby and not carried on for profit.

3.05 Hunting/Firearms. Firearms may only be discharged on Lots of twenty-five (25) acres or larger. Deer hunting with a firearm shall not be permitted on the Property. Hunting is limited to bird hunting and bow hunting of deer on Lots or other portions of the Property containing more than twenty-five (25) acres. Leasing any portion of the Property for hunting is not allowed. No rifle or target ranges or trap or skeet courses or ranges shall be permitted on any portion of the Property.

3.06 Animals/Pets. No swine, roosters or pit bull dogs may be kept, maintained or cared for on the Property. There shall be no more than two (2) dogs, two (2) cats, two (2) birds or fowl (other than laying hens), and two (2) rabbits on any Lot. No more than four (4) laying hens shall be allowed on any Lot, which hens shall be housed in a fenced yard and coup approved by the ACC on the rear 1/3 of the Lot and a minimum of fifty feet (50') from any property line. No more than two (2) horses may be kept on Lots of 2 to 6 acres, and no more than three (3) horses may be kept on Lots larger than 6 acres. No studs, being male horses who have not been gelded, shall be kept on the Property. Cows, sheep and goats may only be kept on a Lot for 4-H or FFA purposes. In the event a cow, sheep or goat is kept for 4-H or FFA purposes it must be by a member of an Owner's family who is under the age of nineteen (19) and a member of a 4-H Club or Future Farmers of America Club. One animal per each member (but not in excess of three per family) shall be permitted for the purpose of raising such animal for competition or as part of a club project, provided that (1) the animal is kept in a pen or other enclosure, (2) the Lot shall be kept in a clean, sanitary and odorless condition, and (3) the animal shall be removed from the Lot upon completion of the competition or club project. No animal shall be permitted on any Lot until a residence has been completed on such Lot and is occupied. No animal may be stabled, maintained, kept, cared for, or boarded for hire or remuneration on the Property, and no kennels or commercial breeding operations will be allowed on the Property. No animal shall be allowed to run at large, and all animals shall be kept within an enclosed area which must be clean, sanitary, and reasonably free of refuse, insects, and waste at all times. No animals or fowl, including domestic, exotic, or wild animals, that are not specifically allowed under this Section 3.06 may be kept or released on the Property.

3.07 Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon a Lot, and no odors shall be permitted to arise therefrom so as to render such Lot or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Lot or to its occupants. No unsightly storage of materials or any items of personal property shall be permitted on any portion of the Property. Dumping of ashes, trash, rubbish, sawdust, garbage, land fill, solid waste and any type of refuse and other unsightly or offensive material is expressly prohibited within the Property. Refuse, garbage and trash shall be kept at all times in a covered container and any such container shall be kept within an enclosed Structure or appropriately screened from view from adjacent Lots and from private or public streets or roads. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

3.08 Mobile Homes; Manufactured Housing. No mobile home, manufactured home, or trailer house shall be moved to or placed on any Lot, either temporarily or permanently. No camper, trailer, recreational

vehicle or any tent, shack or other temporary structure shall be used as a residence, either temporarily or permanently.

3.09 Setback Requirements. No building shall be located on any of the Lots nearer to the front lot line or nearer to the side street line than the minimum setback lines shown on the recorded plat of the Subdivision as it pertains to such Lot or Lots. In any event, no building shall be located on any of the Lots nearer than one hundred (100) feet from the front line, or nearer than fifty (50) feet from any side or rear lot line. No building shall be located nearer than one hundred (100) feet from any street. The ACC shall have the right to impose such additional setback requirements as it deems necessary to preserve lines of sight from neighboring properties and Lots. The ACC shall also be entitled to review and modify the setback requirements for Lots with particular terrain or vegetation features for which compliance with the foregoing setback requirements might be difficult or impossible.

3.10 Maintenance of Lawns, Plantings and Trees. Each Owner shall keep all shrubs, trees, grass, and plantings on such Owner's Lot mowed, cultivated and pruned so that the same are in a neat and attractive condition, and free of trash and other unsightly material.

3.11 Lights. All outdoor lighting shall be appropriately screened or shielded, and directed down and away, from residences or occupied improvements on adjacent Lots.

3.12 Antennae. No exterior radio or television antenna, or aerial or satellite dish receiver larger than 18 inches, or other devices designed to receive telecommunication signals, including, but not limited to radio, television or microwave signals which are intended for cable television, network television reception or entertainment purposes shall be erected or maintained for any purpose without the prior written approval of the ACC.

3.13 Insurance Rates. Nothing shall be done or kept on the Property which would increase the rate of insurance or cause the cancellation of insurance on any Lot or any of the Improvements located on the Property without the prior written approval of the Board.

3.14 Subdividing. No Lot shall be further subdivided nor may any ownership interest therein less than the whole be conveyed by the Owner thereof. Nothing herein shall prevent an Owner of two or more adjoining Lots from building across Lot lines, subject to ACC approval, so long as such construction does not interfere with any easements along Lot lines. In the event that two or more Lots are joined, the Owner shall pay full assessments and fees on each Lot.

3.15 Signs. No signs of any character shall be allowed on any Lot except one conservative address sign for the customary Lot identification purpose; provided, however, that any person or entity engaged in the construction of a residence within the Subdivision shall have the right, during the period of development, construction, and sale of houses in the Subdivision, to place one sign of less than four square feet in size upon the property which states the name, address and telephone number of the builder. Each Lot may have one "for sale" sign of less than four (4) square feet in size. Notwithstanding the foregoing, the appearance and location of all signs must be acceptable to the ACC. The ACC may adopt a policy regulating uniform builder and for sale signs displayed within the Property.

3.16 Noise. No exterior speakers, horns, whistles, bells, or other sound devises (other than security devices used exclusively for security purposes) shall be located, used or placed on any of the Property. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its occupants.

3.17 Construction of Improvements. NO WORK ON ANY IMPROVEMENTS SHALL HEREAFTER BE COMMENCED UPON ANY OF THE PROPERTY WITHOUT THE PRIOR WRITTEN APPROVAL OF THE ACC.

3.18 Repair of Buildings. All Improvements upon any of the Property shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner thereof.

3.19 Alteration or Removal of Improvements. Any construction, other than normal maintenance, which in any way alters the exterior appearance of any Improvement or the removal of any Improvement shall be performed only with the prior written approval of the ACC.

3.20 Roofing Materials. Fifty (50) year composition shingles with metal accents; metal and tile roofs are permitted. The ACC shall have sole discretion and right to approve in writing or reject all other roofing materials to be used on any Improvements constructed on the Property and a failure or refusal to approve is a rejection.

3.21 Utility Lines. Utility lines may run overhead or underground. No other utility lines, including, but not limited to, wires, or other devices for the communication or transmission of telephone or cable television or any other type of line or wire shall be erected, placed or maintained anywhere in or upon any portion of the Property unless the same shall be constrained in conduit or cables installed and maintained underground or concealed in, under or on buildings or other Improvements as approved in writing by the ACC; provided, however, that no provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or other Improvements which have been previously approved in writing by the ACC. The installation for both temporary and permanent utilities shall be subject to review and approval by the ACC.

3.22 Drainage. There shall be no interference with the established drainage patterns over any of the Property, unless adequate provision is made for proper drainage and approved by the ACC. All drainage structures under private driveways shall have a net drainage opening area of sufficient size to permit the free flow of water without backwater. All drainage structures shall be subject to the approval of the ACC.

3.23 Creek and Tributary Obstructions and Alterations. No obstructions (physical or visual) of any type, including, but not limited to, fences, dams, and concrete walkways, shall be placed in, on, or across the bed of any creek adjoining or running through any part of any Lot in the Subdivision. Landscaping of any Creek bed shall be only upon the written approval of the ACC.

3.24 Solar Equipment. Exterior solar equipment shall be installed in accordance with the

Solar Policy adopted by the Association.

3.25 Temporary Structures. No tent, shack or other temporary building, improvement or structure shall be placed upon the Property, without the prior written approval of the ACC; provided, however, that temporary structures necessary for storage of tools and equipment, and for office space for architects, builders and foremen during actual construction, may be maintained with the proper approval of the ACC, approval to include the nature, size, duration and location of such structure.

3.26 Mining and Drilling. No portion of the Property shall be used for the purposes of mining, quarrying, drilling, boring or exploring for or removing oil, gas or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate or earth; except in the normal course of residential amenity construction and common area improvements.

3.27 Unightly Articles; Vehicles. No article deemed to be unsightly by the ACC shall be permitted to remain on any Lot so as to be visible from adjoining property or public or private thoroughfares. Without limiting the generality of the foregoing, graders, trucks other than pickups, boats, tractors, campers, wagons, buses, motorcycles, motor scooters and garden maintenance equipment shall be kept at all times, except when in actual use, in enclosed structures or screened from view and no repair or maintenance shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in enclosed garages or other structures. For the purposes of these restrictions, a "horse trailer" per-se is not considered unsightly and one horse trailer per lot, at any given time, shall be exempt from such "screening" requirements. Notwithstanding the foregoing, the ACC retains the prerogative to determine that a particular horse trailer is unsightly or otherwise a nuisance to the Subdivision. Each single-family residential structure constructed within the Property shall have garage space sufficient to house at least two (2) automobiles. Lot Owners shall not or allow keep more than two (2) automobiles to be visible from any other portion of the Property for any period in excess of seventy-two (72) hours per month. No automobiles or other vehicles may be parked overnight on any roadway within the Property. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household fabric shall be attractively screened from view and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials or scrap or refuse trash shall be kept, stored or allowed to accumulate on any portion of the Property except within enclosed structures or appropriately screened from view.

3.28 Mobile Homes, Travel Trailers, Utility Trailers and Recreational Vehicles. No mobile homes shall be parked or placed on any Lot at any time. Travel trailers, utility trailers, or recreational vehicles shall be parked on the one-third (1/3) of the Lot with a side yard setback of a minimum of one hundred feet (100') and a minimum rear yard setback of fifty feet (50') and reasonably shielded from the view of other Lots within the Property.

3.29 Fences. No fence, of any sort, shall be constructed on any Lot without the ACC's prior written approval. In order to obtain such approval, complete plans and specifications for any proposed fence must be submitted to and approved in writing by the ACC. The ACC may, in its discretion, prohibit the construction of any fence, or specify the materials of which any fence must be constructed.

3.30 Maintenance of Lawns, Plantings and Improvements.

a. In the event the Owner of any Lot shall fail to maintain such Lot and the Improvements situated thereon in a neat and orderly manner, the Association, acting on its own or through the ACC, its agents and employees, shall have the right to enter upon said Lot and to repair, maintain, and restore the Lot and exterior of any and all buildings and other Improvements erected thereon, all at the expense of the Owner.

b. The Owner of any Lot containing a Creek bed, Cliff, or Bluff shall maintain the Creek bed, Cliff, and/or Bluff free of weeds and debris (without the removal of any natural fauna or flora) and, if the Owner shall fail to do so, the Association shall have said area maintained at the expense of the Owner. Anything to the contrary contained in this paragraph notwithstanding, all Creek bed, Cliff, or Bluff maintenance performed by an Owner, or by the Association, shall be performed in accordance with all pertinent and specifically applicable regulations and the ordinances of the appropriate governmental entity.

c. All non-native plants, shrubs, trees, grass, and landscaping on a Lot shall be maintained in a trimmed and neat condition at all times. In the event the Owner of a Lot fails to properly maintain such landscaping, the Association shall be entitled to do so, all at the Owner's expense.

d. The Association shall have the sole authority to make a determination as to the acceptability of the maintenance and appearance of any Lot, and the Association shall have the absolute discretion and authority to determine the necessity for required maintenance of Lots within the Subdivision. No unsightly Lots shall be permitted at anytime.

3.31 Dwelling Size. Each single-family dwelling shall contain a minimum of 3000 square feet. Square footage calculations shall be exclusive of open and closed porches, terraces, patios, balconies, driveways, and garages. On two story homes, no more than forty percent (40%) of the total square footage shall located be on the second floor. These requirements may only be waived by the ACC in unusual circumstances where the property or other characteristics of a Lot do not reasonably enable compliance with this requirement. In addition to a single family residence of at least 3000 sq. ft., each Lot may contain one guest house of at least 750 sq. ft. and no larger than 1500 sq.ft., built to the standards stated herein for the primary home, and be subject to ACC approval.

3.32 Masonry Requirements. Residences located in all Lots shall have a minimum of seventy-five (75%) percent of the exterior walls of stone or masonry construction with the balance of the exterior walls being of hardi-board or other approved siding. In computing these percentages (1) all gables shall be excluded from the total area of exterior walls; (2) all windows and door openings shall be excluded from the total area of the exterior walls; and; (3) stone and masonry used on fireplaces, chimneys and walls of any attached garage may be included in the computation as stone or masonry used. A 100% hardi-board barn style house may be constructed if approved by the ACC.

3.33 Construction in Place. All dwellings shall be built in place on the Lot and the use of prefabricated materials shall be allowed only with the written approval of the ACC.

3.34 Unfinished Structures. No structure shall remain unfinished for more than one (1) year after the same has been commenced and all construction must be commenced within one year of the closing on the purchase of the subject lot.

3.35 Construction Activities. Notwithstanding any provision herein to the contrary, this Declaration shall be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner upon any Lot within the Property. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, or posting of signs or similar activities; provided, however, that such construction is to be pursued to completion with reasonable diligence and conform to usual construction practices in the area. In the event of any dispute regarding such matters, a temporary waiver of the applicable provisions may be granted by the ACC; provided, however, such waiver shall be only for the reasonable period of such construction.

3.36 No Warranty of Enforceability. The Association makes no representation or warranty, either express or implied, as to the present or future validity or enforceability of any such restrictive covenants, terms or provisions. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants, terms or provisions shall assume all risks of the validity and enforceability thereof, and, by acquiring the Lot, agrees to hold the Association, the Board and the ACC harmless therefrom.

3.37 Identification of Lots. The house number for each single family residence shall be located on a stone or masonry structure of a type, constructed of materials, and placed in a location approved by the ACC, and may be illuminated by an electric lighting fixture approved by the ACC.

3.38 Fuel Tanks. Butane or fuel tanks (other than small tanks used for outdoor cooking) or other structure or facility for the storage of combustible fuels shall be placed underground unless otherwise expressly authorized in writing by the ACC, in which case it shall be shielded from the view of any adjoining homesite or roadway.

3.40 Garages and Driveways. All garages shall comply with all other restrictions, covenants, conditions and limitations on usage herein provided for other Improvements in the Subdivision. All garages shall be suitable for not less than two (2) automobiles. All garages shall consist of enclosed structures and no carports shall be permitted on any Lot. A garage shall not be situated in such a manner on a Lot so as to cause the garage door opening to be substantially visible from a street or roadway. The ACC shall have absolute authority over the entrance location and siting of all garages. The location of all driveway cuts shall be subject to approval by the ACC. Driveways on corner Lots facing both a cul-de-sac and main thoroughfare shall be located on the cul-de-sac; provided, however, that the ACC shall have the authority to approve circular drives on any Lot. All driveways shall be constructed of concrete; or asphalt or granite gravel with concrete ribbons along the edges.

3.41 Window Materials. All windows on all Improvements in the subdivision shall utilize only clear or lightly tinted, non-reflective glass and shall utilize vinyl, wood and metal

windowframing. No aluminum windows shall be allowed.

3.42 Stables. Stables for the shelter of horses may be constructed on the lots subject to the following conditions: All stables shall comply with all other restrictions, covenants, conditions and limitations on usage herein provided for other Improvements in the Subdivision, except that, subject to ACC approval, stables may be constructed of materials other than masonry if in the sole discretion of the ACC, the quality of materials, design, and method of construction is compatible with and of a standard equal to other stables in the Subdivision, or to be built in the Subdivision.

3.43 Playscapes. Colored plastic playscapes are prohibited. Playscapes of natural wood, or materials similar in appearance to wood, playscapes may be located on the rear one-half of the Lot, if application to the ACC, showing materials of construction and location on the Lot, is approved.

3.44 Guest Houses. The construction of a guest house or other similar single family structure, as permitted in Sections 3.01 and 3.31, shall not commence prior to the construction of the main single family residence on a Lot (the "Primary Residence"). If a guest house is to be constructed concurrently with the Primary Residence, plans for both shall be submitted to the ACC prior to commencement of construction. A guest house constructed after commencement of the Primary Residence must be approved by a separate submittal to the ACC prior to commencement of construction. No guest house shall be occupied prior to the completion and occupancy of the Primary Residence.

ARTICLE IV GENERAL PROVISIONS

4.01 Severability. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision which shall remain in full force and effect.

4.02 Term. This Declaration, including all of the covenants, conditions, and restrictions hereof, shall run until December 31, 2026, unless amended as herein provided. After December 31, 2026, this Declaration, including all such covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed and acknowledged by the Owners of more than fifty percent (50%) of the total acres within the Property, which instrument must be recorded in the County Clerk's Office of Hays County, Texas.

4.03 Amendment. This Declaration may be amended by a written instrument executed and acknowledged by the Declarant during the Declarant Control Period, and following expiration of the Declarant Control Period, by the President and Secretary of the Association, certifying that the Owners of more than fifty percent (50%) of the total acres within the Property have approved the Amendment, which Amendment must be recorded in the County Clerk's Office of Hays County, Texas.

4.04 Enforcement and Non-Waiver. Any Owner, at such Owner's expense, shall have the right to enforce all of the provisions of this Declaration. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any such provision, as well as the recovery of costs of court expenses and attorneys' fees incurred in the prosecution of such action. The failure to enforce any provision of this Declaration at any time shall never constitute a waiver of the right thereafter to enforce any such provision or any other provision of this Declaration.

ARTICLE V

THE ASSOCIATION

Section 5.01. Organization. Declarant shall cause the formation and incorporation of the Property Owners Association for Medlin Creek Ranch, Inc. (the "Association"). The Association shall be a nonprofit corporation created for the purposes, charged with the duties, and vested with the powers prescribed by law or set forth in its Certificate of Formation, Bylaws or in this Declaration.

Section 5.02. Membership. There shall be three (3) classes of Members in the Association:

(a) Class "A". Class "A" Members shall be all Owners who take title to a Lot or Lots by and through Declarant, and are subject to mandatory assessments. Class "A" Members shall be entitled to one (1) vote in the Association for each Lot it owns in the Property. When more than one person holds an interest or interests in the Property, all such persons shall be Members, and the votes for such portion of the Property shall be exercised as they among themselves determine.

(b) Class "B". The Class "B" Member shall be the Declarant, and any successor of Declarant who is designated as such by an assignment of Declarant rights, executed by Declarant. The Class "B" Members shall be entitled to three (3) times the total number of Class "A" votes in the Association. The Class "B" membership shall cease and become converted to Class "A" membership on the happening of the earlier of the following events:

- (1) Ten (10) years after the date of the first conveyance of a Lot to a person other than Declarant;
- (2) Upon the conveyance of all the Lots owned by Declarant;
- (3) When Declarant, in its sole discretion, so chooses.

(c) Class "C". The Class "C" Members shall be those Owners who did not take title by and through Declarant, and whom are not subject to mandatory assessments. The Class "C" Members shall be entitled to attend meetings of the Association, but shall not be entitled to vote in Association elections. A Class "C" Member may become a Class "A" Member by recording a document in the Hays County Public

Records which makes the Class "C" Member's Lot subject to mandatory assessments by the Association.

Section 5.03. Member Rights in Association. No Member shall have any direct interest in the funds and assets of the Association, but shall have only a membership interest therein which shall not be assigned, hypothecated or transferred in any manner except as an appurtenance to the Owner's interest in the Properties.

Section 5.04. Declarant Rights in the Association. Declarant shall be entitled to appoint at least one (1) member of the Board for as long as Declarant owns two or more Lots. During the time Declarant is entitled to appoint a member of the Board, whether Declarant exercises that right of appointment or not, the Board and the Association shall have no authority to, and shall not, without the prior written consent of Declarant, undertake any action which shall:

(a) Prohibit or restrict in any manner the sales, leasing and marketing programs of Declarant.

(b) Make any Special Assessment or Individual Assessments against Declarant's property within the Properties or upon Declarant.

(c) Change the membership of the ACC or diminish its powers as stated herein.

(d) Alter or amend this Declaration, Certificate of Formation or Bylaws of the Association.

(e) Except as otherwise provided herein, terminate or cancel any contracts of the Association, except as may be permitted therein.

(f) Terminate or waive any rights of the Association under this Declaration.

(g) Terminate or impair in any fashion any easements, powers or rights of Declarant hereunder.

Section 5.05. Board of Directors. The Board shall be comprised of three (3) members. The number of members of the Board may be amended in accordance with the provisions of the Bylaws.

Section 5.06. Assessments.

(a) Creation of the Lien and Personal Obligation for Assessments. Except as may be otherwise provided herein, Declarant, for each Lot owned by it within the Property, hereby covenants, and each Owner, and their successors and assigns, taking title through Declarant shall be deemed to covenant and agree to pay to the Association: 1) Annual Assessments, 2) Special Assessments, and 3) Individual Assessments, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The Annual Assessment, Special Assessment and Individual Assessment, 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 Lot against which each such Assessment is made. Each such Assessment, together with such interest thereon and cost of collection

thereof as hereinafter provided, shall also be the personal obligation of each Person who was an Owner of such Lot at the time when the obligation became due.

(b) Purpose of Assessments. The Assessments levied by the Association shall be used for the purpose of enforcing the Declaration, promoting the values and amenities of the Properties, and in particular, for the improvement, replacement, maintenance and operation of the Public Rights-of-Way, Common Facilities, Drainage Area(s) and Common Area, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Facilities and Common Area by the Members. The Board of Directors may set aside part of the Annual Assessments as a reserve for the replacement or maintenance of Common Area, Common Facilities and Drainage Area(s).

(c) Basis of Annual Assessments. The Annual Assessment for each Lot shall be \$250.00 per year until otherwise 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 Annual Assessment is being made. Lots owned by the Declarant shall not be subject to an Annual Assessment or Special Assessment. In order to maintain the Common Area and sustain the services contemplated by Declarant, Declarant anticipates that during the period of time prior to the date that all Lots become an Improved Lot, it may, in its discretion, provide amounts in excess of the funds raised by the Annual Assessments in order to maintain the Common Area within reasonable standards. If Declarant advances funds for maintenance in excess of the Annual Assessments, such excess shall be a debt of the Association to Declarant payable out of any Annual Assessments or Special Assessments received by the Association. The Board may evidence such debt with a promissory note from the Association payable to Declarant on such terms as the Board shall determine.

(d) Purchase Assessment. The purchaser of each Lot conveyed by deed executed after the effective date hereof shall, contemporaneously with the execution of the deed for such Lot, pay a Purchase Assessment of \$250.00. This Purchase Assessment is separate and distinct from any other assessment provided for herein.

(e) Special Assessments for Capital Improvements. The Association may levy, in any calendar year, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvements on or which is a part of the Common Facilities, Drainage Area(s) or Common Area, provided that any such Special Assessments shall have the assent of two-thirds (2/3) of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose. The due date of any Special Assessment shall be fixed in the resolution authorizing such assessment.

(f) Change in Annual Assessments. The Annual Assessment may be adjusted by majority vote of the Board of Directors but shall not be increased by more than ten percent (10%) above the maximum allowable Annual Assessment for the previous year without a vote of the membership. Any increase in the Annual Assessment by more than ten percent (10%) above the maximum allowable Annual Assessment for the previous year shall

require approval of two-thirds (2/3) of the votes of the Members who are voting in person or by proxy at a meeting duly called for that purpose.

(g) Date of Commencement of Annual Assessments. Annual Assessments provided for herein shall commence on the date the Lot is conveyed by Declarant. The amount of the Annual Assessment which may be levied for the balance remaining in the first year of assessment shall be prorated for the remaining number of months in that year.

(h) Individual Assessment. Upon an affirmative vote of a majority of the members of the Board of Directors of the Association, the Association may levy Individual Assessments against any Owner for reimbursement for maintenance or repairs, for other than ordinary wear and tear, occasioned by the willful or negligent acts of such individual Owner or such Owner's family, pets, tenants or other occupants of such Owner's Lot; for any other cost incurred by the Association in performing the obligations of the Owner under this Declaration; and for payment of fines by the Association for failure to comply with this Declaration or Rules and the Regulations.

(i) Duties of the Board of Directors. Prior to the beginning of each fiscal year for the Association, the Board shall estimate the expenses to be incurred by the Association during such year in performing its functions under this Declaration, including a reasonable provision for contingencies and appropriate replacement reserves, less any expected income and any surplus from the prior year's fund. If in any year the Board fails to set an Annual Assessment for such year, the Annual Assessment shall be deemed to be the same as the Annual Assessment for the preceding year. Assessments sufficient to pay such estimated net expenses shall then be levied by the Association as herein provided, and the amount of such Assessments as determined by the Board shall be final and binding so long as such determination is made in good faith. All such regular Assessments shall be due and payable to the Association at the beginning of the fiscal year for the Association for which such Assessments are payable, or during such fiscal year in equal quarterly installments on or before the first day of each quarter, or in such other manner as the Board may designate in its sole and absolute discretion. Written notice of the Assessment shall thereupon be sent to every Member subject thereto. The Association shall upon demand at any time furnish to any Member liable for said Assessment a certificate that shall be conclusive evidence of payment of any Assessment therein stated to have been paid conditioned on the payment by Owner of a reasonable fee to the Association.

(j) Effect of Non-Payment of Assessments: The Lien; Remedies of the Association. If the Assessments are not paid on the date when due, then such Assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof provided, thereupon become a continuing lien on the Lot which shall bind such Lot 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 Assessment shall bear interest from the date of delinquency at the highest rate of interest permitted by law, and the Association may bring an action at law against the Owner to pay the same or to foreclose the lien against the Lot, or foreclose on the Lot as provided herein 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 (as limited by the

Texas Property Code) and costs of suit. Notice of the lien referred to in this Section may be given by the recordation in the office of the county clerk of Hays County, Texas, of an affidavit, duly executed, acknowledged by an officer of the Association, setting forth the amount owed, the name of the Owner or Owners of the affected Lot, according to the books and records of the Association, and a legal description of such Lot.

(k) 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 Assessments thereafter becoming due, or from the lien of any such subsequent Assessment.

Section 5.07. Functions of the Association. The Association shall have all of the powers of a Texas non-profit corporation, as such powers may exist from time to time, subject only to such limitations upon the exercise of such powers as may be expressly set forth in this Declaration, and the Certificate of Formation and Bylaws. It shall further have the power to do and perform any and all acts that may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration, Certificate of Formation or Bylaws. Without in any way limiting the generality of the two (2) preceding sentences, the Association and the Board acting on behalf of the Association, shall have the power and authority to perform the following functions:

(a) The Association shall provide maintenance for the Common Area, Common Facilities, Drainage Area(s) and Public Right-of-Ways. The Association shall have the power, but not the obligation, to provide maintenance for any property located within the Properties with respect to which the Association has accepted an easement. The Association shall also have the power, but not the obligation, to supplement the services provided by any Governmental Authorities or to provide special maintenance or services for particular areas in the Properties that it deems desirable. The Association reserves a perpetual right of access on and across all or any part of the Properties in order to provide any maintenance or services required or authorized to be performed or undertaken by the Association.

(b) The Association shall have the power to take any and all actions necessary to enforce all covenants, conditions and restrictions affecting the Properties and to perform any of the functions or services delegated to the Association in any covenants, conditions or restrictions applicable to the Properties, Certificate of Formation, Bylaws or Rules and Regulations, including, without limitation, those contained within this Declaration and as set forth in any amendment.

(c) The Association shall conduct the business of the Association, including, but not limited to, administrative services such as legal, accounting, financial and communication services. The Association shall have the right to enter into management agreements with companies affiliated with Declarant in order to provide its services and

perform its functions and to retain professionals necessary or proper in the operation of the Association.

(d) The Association shall have the power, but not the obligation, to purchase and maintain in effect general liability, flood and hazard insurance covering Improvements and activities on the Common Area and such other insurance and in such amounts as the Board deems necessary. The Association shall cause all officers or employees having fiscal responsibility to be bonded in such amounts as the Board deems necessary.

(e) The Association shall operate the ACC in accordance with the terms of this Declaration.

(f) The Association shall have the power, but not the obligation, to adopt, publish and enforce the Rules and Regulations.

(g) The Association shall have the power, but not the obligation, to provide lighting on the Common Area.

(h) The Association may construct improvements on the Common Area. Any construction of improvements by the Association shall be subject to the same approval process and procedures as are provided for in Article VII.

(i) The Association may provide exterior maintenance upon any Improvement or Lot located within the Properties that, in the Association's opinion requires such maintenance because such Improvement or Lot is being maintained in a sub-standard manner. The Association shall notify the Owner of any such Lot in writing, specifying the nature of the condition to be corrected, and if the Owner has not corrected such condition within fifteen (15) days after the date of such Notice, the Association may correct such condition. The cost of such maintenance shall be assessed against the Lot and Owner as an Individual Assessments or the Board may offer to pay a portion of the repair if the Board determines that the repair or maintenance would enhance the beauty and value of the Properties (i.e., rear or side fence along public street or entry way). For the purpose of performing the exterior maintenance authorized by this section, the Association, through its duly authorized agents or employees, shall have the right to enter upon any Lot or Improvement.

(j) The Association may carry out any of the functions and services specified in this Article to the extent such maintenance and services can be provided with the proceeds first from Annual Assessments and then, if necessary and appropriate, from Special Assessments or Individual Assessments.

(k) The right of the Association to adopt, amend, enforce and revoke rules and regulations governing the use, operation and maintenance of the Common Area and Common Facilities including, without limitation, the authority to assess fines against Owners violating such rules and regulations. The Association is further authorized and empowered to prohibit the use, or to limit the manner and extent of use of the Common Area and Common Facilities by Owners owing unpaid fines or violating rules and regulations of

the Association. The Association shall send an Owner the written notice required by Texas Property Code Section 209.006 before the Association may suspend an Owner's right to use the Common Area or Common Facilities or take other legal action as set forth in Section 209.006. The Association shall hold and conduct a hearing as required by Texas Property Code Section 209.007.

Section 5.08. Mortgage and Sale. The Board shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association which loans shall be used by the Association in performing its functions; provided, however, that the Board shall not mortgage, sell nor otherwise transfer all or any part of the Common Area unless such action shall be authorized by a majority of the total eligible votes of the Members of the Association, cast at a duly called meeting of the Association, and unless Notice of the meeting and of the proposed agreement and action thereunder is sent at least ten (10) days, but no more than fifty (50) days, prior to such meeting to every Member entitled hereunder to vote. A true copy of such resolution together with a written statement certifying the results of the vote taken thereon shall be made and acknowledged by the President or Vice President and Secretary or Assistant Secretary of the Association and such statement or certificate shall be annexed to any instrument of dedication, transfer or encumbrance affecting the particular Common Area, prior to the recording thereof. Such certificate shall be conclusive evidence of authorization by the Members.

Section 5.09. Conveyance to Association. The Association shall be obligated to accept any and all conveyances to it by Declarant of fee simple title, easements or leases to Common Facilities, Drainage Area(s) or Common Area. A majority of the Board shall determine whether the Association shall accept any other conveyances.

Section 5.10. Conveyance by Association. Subject to the provisions of this Article 2, the Association shall be empowered to delegate or convey any of its functions or properties to any Governmental Authorities or public utility for public purposes consistent with the intended use of such property to the extent such entity shall assume and discharge all obligations relative thereto.

Section 5.11. Liability, Insurance and Release. Each Owner, Member and resident of the Properties expressly understands, covenants and agrees with Declarant and the Association as follows:

(a) No Liability. Neither Declarant nor the Association has any responsibility or liability of any kind or character whatsoever regarding or pertaining to the real and personal property of each Owner, Member and resident of the Properties.

(b) Maintain Insurance. Each owner, Member and resident of the Properties shall, from time to time and at various times, consult with reputable insurance industry representatives of each Owner's, Member's and resident's own selection to select, purchase, obtain, and maintain appropriate insurance providing the amount, type and kind of insurance deemed satisfactory to each Owner, Member and resident covering his or her real and personal property.

(c) Release of Claims. Each Owner, Member and resident of the Properties releases Declarant and the Association and their respective agents, attorneys, employees, officers, Directors, and partners from any liability, claims, causes of action or damages of any kind or character whatsoever arising out of or related (directly or indirectly) to any and all aspects of the Properties.

ARTICLE VI

ACC

Section 6.01. Designation of ACC. The ACC (the "ACC"), shall consist of not less than three (3) members who shall be natural persons. The initial ACC shall consist of John Siemering, Dale Billy and Regine Pedersen. Persons serving on the ACC shall serve until removed by the Declarant or until a resignation is effective. Any member may resign at any time for any reason and such resignation shall be effective upon notice thereof to the Declarant. Subsequent members of the ACC shall be appointed by the Declarant or its assignee.

Section 6.02. Function of the ACC. Following the date of recording of this Declaration, no improvement, as that term is hereinafter defined, except those constructed by the Declarant, shall be erected, constructed, placed, altered (by addition or deletion), maintained or permitted to remain on any portion of the Property until plans and specifications, and any other information pertaining thereto, in such form and detail as the ACC may deem necessary, shall have been submitted to and approved in writing by the ACC. The decision of the ACC shall be final, conclusive, and binding upon the applicant. **Notices and applications to the ACC shall be submitted in writing to John Siemering at 12400 Hwy 71 West, Suite 350-110, Austin, Texas 78738. The application review fee for houses shall be \$500.00, and \$100.00 for all other applications.**

Section 6.03. Content of Plans and Specifications. The plans and specifications to be so submitted and approved shall include the following:

- (a) A site plan showing the location of all improvements, structures, walks, driveways, fences, and Lot corners and the corners of proposed improvements; a grading plan and a drainage plan. Lot drainage provisions shall be indicated as well as cut and fill details if any appreciable change in the Lot contours is contemplated.
- (b) Exterior elevations showing all sides of the proposed improvements.
- (c) Exterior materials, colors, textures and shapes.
- (d) Structural design and construction plans.
- (e) Landscaping plan, including walkways, fences and walls, elevation changes, sprinkler systems, vegetation and ground cover.
- (f) Parking area and driveway plan.

- (g) Any exterior illumination, including location and method.
- (h) Any fire protection systems required by applicable government law, ordinance or regulation.
- (i) Signs, including size, shape, color, location and materials.
- (j) Mailboxes, if any.

Section 6.04. Definition of "Improvement". The term "Improvement" shall mean and include all buildings and roofed structures, fences, walls, mass plantings, driveways, signs; any new exterior construction or exterior improvement; all outbuildings; and both original improvements and all later changes and improvements. The term "Improvement" shall not include garden shrub or tree replacements or any other replacement or repair of any magnitude which does not change exterior colors or exterior appearances. Further, the term "Improvement" shall include repairs and/or replacements of exterior improvements damaged by fire or other casualty, following the recording of this Declaration.

Section 6.05. Variances. In case of special size or shape of site or condition of terrain or special use, operation or treatment not provided for within the general conditions of the protective covenants herein contained or for any other reason, the ACC may, in its discretion, permit such variances or exceptions to the restrictions herein contained as it deems necessary or desirable.

Section 6.06. Failure of the ACC to Act. The ACC shall approve such plans and specifications or reject them as being inadequate within thirty (30) days after receipt thereof. If plans and specifications are not sufficiently complete or are otherwise inadequate, the ACC may reject them as being inadequate or may approve part, conditionally or unconditionally, and reject the balance. If the ACC shall fail to respond to any Owner within thirty (30) days after its verifiable receipt of any original or revised plans and specifications submitted hereunder, such plans and specifications shall be deemed to have been approved by the ACC.

Section 6.07. Limitation of Liability. Neither Declarant, the ACC, nor any of the members of the ACC shall be liable in damages or otherwise to anyone submitting plans and specifications for approval or to any owner of land affected by this Declaration by reason of mistake of judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any plans and specifications.

Section 6.08. Inspection of Work.

- (a) Completed Work. Inspection of completed work and correction of defects therein shall proceed as follows:
 - (1) Upon the completion of any improvement for which the final plans and specifications were approved under this Declaration, the Owner shall give written notice of completion to the ACC.

- (2) The ACC or its duly authorized representative may inspect such improvement within fifteen (15) days of receipt of notice of completion. If the ACC finds that such work was not done in strict compliance with all approved plans and specifications, it shall notify the Owner in writing of such noncompliance within five (5) days, specifying in reasonable detail the particulars of noncompliance, and shall require the Owner to remedy the same.
 - (3) If upon the expiration of thirty (30) days from the date of such notification the Owner shall have failed to remedy such noncompliance, The ACC, upon notice to the Owner with an opportunity to attend, shall conduct a hearing at which it shall determine whether there is noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days following the announcement of the ACC's ruling. If the Owner does not comply with the ACC's ruling within such period, the Declarant, at its option, may either remove the non-complying improvement, remedy the noncompliance or seek appropriate injunctive relief and other available legal redress from a court of competent jurisdiction, and the Owner shall reimburse the Declarant upon demand for all expenses incurred in connection therewith.
 - (4) In the event the Improvement shall be deemed to be in accordance with the ACC's approved plans and specifications, and upon request by Owner and payment of a fee of \$250.00, the ACC shall issue and record a "Certificate of Compliance" in a form suitable for recording. The certificate shall identify the Lot and the improvement, and shall certify only that the improvements thereon are not in violation of the covenants of the Declaration, or if they are in violation, that a variance has been granted. THE CERTIFICATE SHALL NOT BE CONSTRUED TO CERTIFY THE ACCEPTABILITY, SUFFICIENCY OR APPROVAL BY THE ARCHITECTURAL CONTROL ACC OF THE ACTUAL DESIGN OR CONSTRUCTION OF THE IMPROVEMENTS OR OF THE WORKMANSHIP OR MATERIALS THEREOF. THE OWNER IS HEREBY NOTIFIED THAT THE CERTIFICATE IN NO WAY WARRANTS THE SUFFICIENCY, ACCEPTABILITY OR APPROVAL BY THE ARCHITECTURAL CONTROL ACC OF THE DESIGN, CONSTRUCTION, WORKMANSHIP, MATERIALS OR EQUIPMENT OF THE IMPROVEMENTS. RECORDATION OF SUCH A CERTIFICATE SHALL BE AT THE EXPENSE OF THE OWNER OF THE IMPROVED LOT.
- (b) Work in Progress. The ACC may inspect all work in progress and give notice of noncompliance with the Declaration. If the Owner denies that such noncompliance exists, the procedures set out in Subparagraph 8(a) above shall be followed, except that no work shall be done, pending resolution of the dispute, which would hamper correction of the noncompliance if the ACC should ultimately find that noncompliance exists.

Section 6.09. Enforcement. Declarant or the Association, through its Board of Directors shall have the authority and standing to enforce in courts of competent jurisdiction the decisions of the ACC established in this Article. This Article may not be amended without Declarant's written consent, so long as Declarant owns any land subject to this Declaration.

(Signatures on the following page.)

Executed to be effective upon recording.

BARTON BEND, LP,
a Texas limited partnership

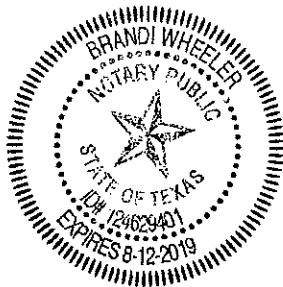
By: Barton Bend GP, LLC,
a Texas limited liability company
Its General Partner

By: 
John R. Siemering, Manager

STATE OF TEXAS §

COUNTY OF HAYS §

This Declaration was acknowledged before me on the 23 day of May, 2017, by John R. Siemering, as Manager of Barton Bend GP, LLC, a Texas limited liability company, as General Partner of BARTON BEND, LP, a Texas limited partnership, on behalf of said limited partnership.




Notary Public, State of Texas