071439

AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

for

THE PRESERVE AT WALNUT SPRINGS

Upon recording, please return to:

Christopher Hawks, P.C.
P.O. Box 1495
220 South King Street
Jackson, WY 83001

Filed this 24 day of April 20 07
4:29 P.M

KAREN NEWMAN
County Clerk, Blanco County, Texas
By Debra M. Wells Deputy

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Amended and Restated

Declaration of Covenants, Conditions, and Restrictions

For

The Preserve at Walnut Springs

This AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made this 13th day of December, 2006, by THE PRESERVE AT WALNUT SPRINGS LIMITED PARTNERSHIP, Virginia limited partnership, through its general partner, Walnut Springs, Inc., a Virginia corporation (the "Declarant"). This Declaration amends and restates in its entirety that certain Declaration of Covenants, Conditions, and Restrictions for The Preserve at Walnut Springs (the "Original Declaration") previously filed for record under Document No. 033891, Vol. 0289 pages 459-505 of the Official Public Records of Blanco County, Texas, and Declarant has the power and authority to so amend and restate the Original Declaration pursuant to the terms of Section 13(a) of said Original Declaration.

PART ONE: INTRODUCTIONS TO THE COMMUNITY

THE PRESERVE AT WALNUT SPRINGS LIMITED PARTNERSHIP *as the developer of The Preserve at Walnut Springs has established this Declaration to provide a governance structure and a flexible system of standards and procedures for the overall development, administration, maintenance and preservation of the properties at The Preserve at Walnut Springs as a master planned community.*

ARTICLE I - CREATION OF THE COMMUNITY

1.1 Purpose and Intent. The Declarant, as the owner of the real property described on Final Plat as it is recorded in the Blanco County Land Records Office intends by the recording of this Declaration to create a general plan of development for the planned community known as The Preserve at Walnut Springs. This Declaration provides for the overall development, administration, maintenance and preservation of the real property now or hereafter comprising the properties at The Preserve at Walnut Springs. An integral part of the development plan is the creation of The Preserve at Walnut Springs Homeowners Association, an association comprised of all owners of Lots in the Preserve at Walnut Springs, to own, operate and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the other Governing Documents referred to in this Declaration.

1.2 Binding Effect. All property described on **Exhibit A** hereto and any additional property which is made a part of The Preserve at Walnut Springs in the future by filing one or more Supplemental Declarations in the Public Records, shall be owned, conveyed and used subject to all of the provisions of this Declaration, which shall run with the title to such property. This

Declaration shall be binding upon all Persons having any right, title or interest in any portion of the Properties, their heirs, successors, successors-in-title, and assigns.

This Declaration shall be enforceable in perpetuity by the Declarant, the Association, any Owner, and their respective legal representatives, heirs, successors, and assigns.

1.3 Governing Documents. The Governing Documents create a general plan of development for The Preserve at Walnut Springs which may be supplemented as set forth herein. In the event of a conflict between or among the Governing Documents and any such additional covenants or restrictions, the Governing Documents shall control. Nothing in this Section shall preclude any Supplemental Declaration or other recorded covenants applicable to any portion of the Properties from containing additional restrictions or provisions that are more restrictive than the provisions of this Declaration. The Association may, but shall not be required to, enforce any such covenants, restrictions or other instruments.

All provisions of the Governing Documents shall apply to all Owners as well as their respective family members, tenants, guests and invitees.

If any provisions of this Declaration is determined by judgment or court order to be invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications.

ARTICLE II - DEFINITIONS

The terms used in Governing Documents shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms shall be defined as set forth below.

2.1 Area of Common Responsibility. Lots 54, 55A, 56, 58, 61, 62, 63, 64 and 65 and the common roadway system as shown on the Final Plat, the Common Area and the Open Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration or other applicable covenants, contracts, or agreements.

2.2 Association. The Preserve at Walnut Springs Homeowners' Association, a Texas non-profit corporation, its successors or assigns.

2.3 Base Assessment. Assessments levied on all Lots subject to assessment under Article VIII to fund Common Expenses, as determined in accordance with Section 8.1.

2.4 Blanco County Land Use Regulations. Shall have the meaning given to such term in Section 4.10(a).]

2.5 Board of Directors. (Or "Board") The body responsible to the membership for operations of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under Texas corporate law.

2.6 Bound Parties. Shall have the meaning given to such term in Section 12.2.

2.7 Building Envelope. shall mean the contiguous portion of a Lot designated as the Building Envelope for such Lot in accordance with paragraph 4.10(d) hereof, upon which all Structures otherwise permitted to be constructed upon such Lot must be located (except for those specific improvements of the type described in paragraph 4.10(d) hereof which are allowed outside of a Building Envelope).

2.8 Club Facilities. shall mean those particular amenities now or hereafter located upon the Common Area which may from time to time be made available by the Association for use by the Owners pursuant to separate agreement, including without limitation, the pool house/clubhouse, pools, tennis courts, putting green and equestrian center, trails and BBQ and picnic areas.

2.9 Common Area. All real and personal property, including easements, which the Association owns, leases or in which it otherwise holds possessory or use rights for the common use and enjoyment of the Owners, including the Club Facilities.

2.10 Common Expenses. The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Lots including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents.

2.11 Community-Wide Standard. The standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard shall be established initially by the Declarant and may be more specifically defined in the Design Guidelines, the Master Rules and Regulations, and in Board resolutions.

2.12 County Road. Shall mean County Road 204, located in Blanco County, Texas that passes through the Property.

2.13 Covenant to Share Costs. Any Declaration of Easements and Covenant to Share Costs to be executed by Declarant and recorded in the Public Records which creates certain easements for the benefit of the Association and the present and future owners of the real property subject to such Covenant to Share Costs and which obligates the Association and such owners to share the costs of maintaining certain property described in such Covenant to Share Costs.

2.14 Declarant. The Preserve at Walnut Springs Limited Partnership, a Virginia limited partnership, or: (i) any successor or assign who takes title to any portion of the Property for the purpose of development and/or sale and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant.

2.15 Design Guidelines. The architectural, design and construction guidelines and review procedures adopted pursuant to Article IV, as they may be amended.

2.16 DEW. Shall have the meaning given to such term in Section 4.2.

2.17 Development. Development shall mean and refer to the residential development and improvement located on and within the Property known as The Preserve at Walnut Springs.

2.18 Final Plat. shall mean the final subdivision plat creating the 66 Lots out of a portion of the Property for single family residential purposes, as approved by the applicable governmental agency or agencies of Blanco County, Texas and as recorded or to be recorded in the applicable real property records of Blanco County, Texas.

2.19 Governing Documents. A collective term referring to this Declaration and any applicable Supplemental Declaration, the By-Laws, the Articles, the Design Guidelines, and the Use Restrictions and Master Rules and Regulations as they may be amended.

2.20 Lot. Shall be any single family residential lot described on the Plat as recorded in the land records of Blanco County, Texas.

2.21 Master Plan. The land use plan for the development of The Preserve at Walnut Springs community dated September 30, 2003 and amended July 7, 2004. The Declarant may amend features of the Master Plan, including but not limited to, the design, elements, phasing, specifications, and amenities proposed in the Master Plan. The Master Plan includes the property described on the Final Plat. The Master Plan proposes a development of the Properties into sixty-six single family home sites. Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration or create the proposed number of Lots identified in the Master Plan.

2.22 Master Rules and Regulations. The Master Rules and Regulations are the Rules and Regulations adopted by the Board pursuant to Section 3.2 hereof.

2.23 Member. A Person subject to membership in the Association pursuant to Section 6.2.

2.24 Mortgage. A deed of trust, a mortgage, a deed to secure debt, or any other form of security instrument affecting title to any Lot or all or any portion of the Properties. "Mortgagee" shall refer to a beneficiary of a deed of trust or holder of a Mortgage.

2.25 Open Area. Shall be the area shown on the Final Plat and Master Plan as Lot Nos. 54, 55A, 61, 62, 63, 64 and 65 and reserved as open area for the benefit of the Association and its Members.

2.26 Owner. One or more Persons who hold the record title to any Lot, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is sold under a recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

2.27 Person. A natural person, a corporation, a partnership, a trustee, or any other legal entity.

2.28 Properties. The real property described on the Final Plat, together with such additional property as is subjected to this Declaration in accordance with Article IX. Each of the Supplemental Declarations which subject additional property to the Declaration shall provide a legal description of the Common Area included therein, if any.

2.29 Public Records. The Official Records of the County Recorder of Blanco County, Texas.

2.30 Roadway System. The roadway system shall consist of platted Lots owned by the Association, as shown on the Final Plat.

2.31 Special Assessment. Assessments levied in accordance with Section 8.3.

2.32 Specific Assessment. Assessments levied in accordance with Section 8.4.

2.33 Supplemental Declaration. An instrument filed in the Public Records pursuant to Article IX which subjects additional property to this Declaration, designates neighborhoods, and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS

ARTICLE III - USE AND CONDUCT

3.1 Framework for Regulation. The Governing Documents establish, as part of the general plan of development for the Properties, a framework of affirmative and negative covenants, easements and restrictions which govern the Properties. However, within that framework, the Board and the Members must have the ability to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends and technology which inevitably will affect The Preserve at Walnut Springs, its Owners and residents. Toward that end, this Article establishes procedures for modifying and expanding the initial Master Rules and Regulations.

3.2 Rule Making Authority.

(a) Subject to the terms of this Article and the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may modify, cancel, limit, create exceptions to, or expand the Master Rules and Regulations. The Board shall send notice by mail to all Owners concerning any such proposed action as least five (5) business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

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Such action shall become effective after compliance with Section 3.2(c) below unless disapproved at a meeting of the Members by more than fifty percent (50%) of the total votes entitled to vote on the matter. The Board shall have no obligation to call a meeting of the Members to consider disapproval except upon receipt of a petition of the Members as required for special meetings in the Section 6.2 of the By-Laws. Upon such petition of the Members prior to the effective date of any Board action under this Section 3.2(a), the proposed action shall not become effective until after such meeting is held, and then subject to the outcome of such meeting.

(b) Alternatively, the Members, at an Association meeting duly called for such purpose, may adopt rules which modify, cancel, limit, create exceptions to, or expand the Master Rules and Regulations by a vote of more than fifty percent (50%) of the total votes entitled to vote on the matter.

(c) At least thirty (30) days prior to the effective date of any action taken under subsections (a) or (b) of this Section, the Board shall send a copy of the new rule or explanation of any changes to the Master Rules and Regulations to each Owner specifying the effective date. The Association shall provide, without cost, a copy of the Master Rules and Regulations then in effect to any requesting Member or Mortgagee.

(d) Nothing in this Article shall authorize the Board or the Members to modify, repeal or expand the Design Guidelines. In the event of a conflict between the Design Guidelines and the Master Rules and Regulations, the Design Guidelines shall control.

3.3 Owners' Acknowledgement and Notice to Purchasers. All Owners are given notice that use of their Lot is limited by the Master Rules and Regulations as they may be amended, expanded and otherwise modified hereunder. Each Owner, by acceptance of a deed for their Lot, acknowledges and agrees that the use and enjoyment and marketability of his or her Lot can be affected by this Declaration and that the Master Rules and Regulations may change from time to time. All purchasers of Lots are on notice that changes may have been adopted by the Association that are not recorded in the Public Records. Copies of the current Master Rules and Regulations may be obtained from the Association.

3.4 No Mining, Excavating or Drilling. No property within The Preserve at Walnut Springs shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing geothermal resources, oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel, sand, top soil, or earth. Nothing contained herein shall be construed to limit the rights of the owner of mineral interest severed from the surface of any portion of the Properties prior to the recording of this Declaration and nothing herein shall prevent the Declarant or an Owner from moving dirt, gravel rocks and other soils necessary for the development of their respective properties.

3.5 Protection of Owners and Others. No rule shall be adopted in violation of the following provisions, except as may be specifically set forth in this Declaration (either initially or by amendment) or in the initial Master Rules and Regulations.

(a) **Equal Treatment**. Similarly situated Owners shall be treated similarly by the Board and the Association.

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(b) **Displays**. The rights of Owners to display religious and holiday signs, symbols, and decorations inside structures on their Lot(s) of the kinds normally displayed in dwellings located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt reasonable time, place, and manner restrictions with respect to displays visible from outside the dwelling.

No rules shall regulate the content of political signs; however, rules may regulate the time, place and manner of posting such signs (including design criteria).

(c) **Household Compositions**. No rule shall interfere with the freedom of Owners to determine the composition of their households.

(d) **Activities Within Dwellings**. No rule shall interfere with the activities carried on within the confines of dwellings, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Lots, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance as reasonably determined by the Board.

(e) **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 upon any Lot, the Common Area, Open Area or Club Facilities without prior written approval of the Board.

(f) **Allocation of Burdens and Benefits**. No rule shall alter the allocation of financial burdens among the various Lots to the detriment of any Owner over that Owner's objection expressed in writing to the Association. This provision does not affect the right to increase the amount of assessments as provided by Article VIII.

(g) **Alienations**. No rule shall prohibit leasing or transfer of any Lot, or require consent of the Association or Board for leasing or transfer of any Lot; provided, the Association or the Board will require a minimum lease term of thirty (30) days for all Lots. The Association may require that Owners use lease forms approved by the Association, but shall not impose any fee on the lease or transfer of any Lot greater than an amount reasonably based on the costs to the Association of administering that lease or transfer.

(h) **Abridging Existing Rights**. If any rule would otherwise require Owners to dispose of personal property which they maintained in or on the Lot prior to the effective date of such rule, or to vacate a Lot in which they resided prior to the effective date of such rule, and such property was maintained or such occupancy was in compliance with this Declaration and all rules previously in force, such rule shall not apply to any such Owners without their written consent.

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(i) **Rights to Develop**. No rule or action by the Association or Board shall impede the Declarant's right to develop the Properties or any property annexed into the regime of the Properties as provided for herein.

The limitations in subsections (a) through (h) of this Section 3.4 shall only limit rulemaking authority exercised under Section 3.2; they shall not apply to amendments to this Declaration adopted in accordance with Article X.

3.6 Domestic Animals. No animals, including pigs, poultry, fowl, wild animals, cattle, sheep, goats or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept, maintained or cared for on any subdivided Lot thereof, except for the animals, including horses, longhorn cattle, llamas and other livestock and wildlife that Declarant or the Association determines to own and raise and/or manage on the Common Area.

Notwithstanding the foregoing, each Lot shall be entitled to a maximum of no more than a total of four (4) dogs and/or cats and a reasonable number of other Household Pets (the term Household Pet(s) means generally recognized Household Pets such as dogs, cats, fish, birds, rodents, and non-poisonous reptiles), so long as such pets are not kept for any commercial purpose, are not kept in unreasonable numbers, do not cause an unreasonable amount of noise, odor, or do not otherwise become a nuisance to other Owners. All Owners or Occupants with household pets shall keep the animals restrained and controlled on the Lot at all times so they do not cause a nuisance to others and do not harass or endanger wildlife. "Nuisance" means any noisy animal, any vicious animal, or any animal which chews, tears, digs in or scratches, litters or soils, destroys, or in any other manner injures clothing, garbage containers, gardens, flower beds, lawns, trees, shrubbery, or any other property within the Properties. Excessive, continued, or untimely barking, molesting passersby, chasing vehicles, habitually attacking other animals, trespassing upon private property in such a manner as to damage property shall also be deemed a nuisance. "Noisy animal" means any animal which habitually, constantly, or frequently disturbs the sleep, peace, or quiet of any person. The Board or its designee shall have the right to enter the property and remove any Noisy animal and any such action shall not be deemed a trespass. In the event the Board removes such an animal, the animal shall be kenneled and the cost therefore shall be levied against the offending Owner as a Special Assessment.

No owner or keeper of any animal who is visiting or working on the Properties shall be permitted to allow such animals to run free. Also, no pet or animal shall be restrained by leash, cord, chain, rope, or other attachment fixed to any vehicle, post, tree, or other structure or object within the Properties thereby allowing such animal to become a nuisance or interfere with pedestrian or vehicular traffic in and around any public area within the Properties. Contractors, sub-contractors and any other person providing services to an Owner may not bring dogs onto the Properties.

The Owner of a Lot where a household pet is kept, as well as the legal owner of the pet (if not such Owner), shall be jointly and severally liable for any and all damage and destruction caused by the pet, and for any clean-up of roads or other Lots necessitated by such pet.

The Association shall have, and is hereby given, the right and authority to determine in its sole discretion that household pets are being kept for commercial purposes, or are otherwise a nuisance to other Owners or Occupants, or that a Owner or Occupant is otherwise in violation of this Section, and to take such action or actions as it deems reasonably necessary to remedy the violation. Without limiting the generality of the foregoing, the Association may require the owner or custodian of a dog that barks or howls excessively, or of a household pet with other offensive habits, to confine such animal indoors. Further, the Association may require an Owner, as its own expense, to remove pet determined by the Association to be a nuisance pet and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the Lot and remove the nuisance pet and any such action shall not be deemed a trespass.

3.7 Wildlife. It is recognized by the Declarant and the purchasers and Owners of any Lot within the Property that many wildlife species live on the Property during various times of year. Upon purchase of any Lot, the Board shall provide to the purchaser thereof a copy of the Wildlife Management Plan for the Property in order to provide information on the Wildlife and other natural resources on the Property and the adjacent area.

The following limitations on use and Development are intended, in addition to all the other requirements of this Declaration, to protect, preserve and maintain the existing wildlife habitat on the Property and to minimize the adverse effects of Development on wildlife habitat:

(a) No Owner of any Lot shall remove or alter or allow others to remove or alter any of the existing vegetation thereon, except as is absolutely necessary for the clearing and preparation of the Building Envelope for such Lot for the purposes of constructing authorized Structures or roads thereon;

(b) In addition to the requirements set forth in Section 3.6 above, household pets, shall be controlled and restrained at all times, and shall not be allowed to run at large on any portion of the Property, except within an enclosed improvement area not to exceed 1000 square feet contiguous to an improved Structure within the Building Envelope (a "kennel") or within an electronic pet containment system installed within the designated building envelope; and cats shall be on leashes or under verbal leash at all times and dogs must be leashed or under verbal leash when outside of the kennel or residence.

(c) Hunting shall be allowed in Open Area only after the Board has received the annual harvesting recommendations from the State Game Biologist (or other Wildlife biologist or consultant) and a lottery has been drawn, made up of the Owners, to comply with such recommendations. In the event that more animals are recommended to be harvested than Owners are available, the Board will allow, in the sole discretion of the Board, friends of Owners, other Property residents or other third parties deemed necessary to fill such vacancies in order to achieve the desired harvesting numbers. Hunting shall be allowed only during hunting season as prescribed by State and Local laws. The Association may further establish guidelines that reasonably restrict days of the week or hours when hunting shall be permitted.

3.8 Fencing. No boundary fences around the perimeter of any Lot is allowed. The following are the only fences permitted on any Lot and shall be subject to approval by the DEW:

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(a) Around approved Building Envelopes, fences not greater than four feet in height constructed of materials approved by the DEW;

(b) On garden plots approved as to size by the Board, a garden fence not greater than eight (8) feet in height constructed of materials approved by the DEW;

(c) Fences around swimming pools and tennis courts, the permitted size, construction type and color of which shall be approved by the DEW; and

(d) A dog run, the size, construction and location of which shall be approved by the DEW, provided that the run is contiguous to and bordered on one side by one of the four permitted Structures within the Building Envelope but in no case shall be less than 100' from the perimeter property line of such Lot;

Boundary markers such as stone or clustered trees intended to delineate the Lot Perimeter boundary may be approved by the DEW in its sole discretion.

3.9 Trees. Native trees, with the exception of invasive cedar less than 4" in diameter at 4' above the ground, and timber shall not be removed from any Lot, except as may be deemed necessary by the Design, Environment and Wildlife Committee for the construction of authorized buildings and improvements or beneficial to the natural landscape and health of surrounding flora and fauna. Invasive cedar less than 4" in diameter at 4' above the ground may be removed by an owner without the prior approval of the Board.

3.10 Vehicle Parking, Storage, Operation and Repair.

(a) Permitted vehicles (as defined in subsection (b) below) may be parked on the Properties. No boats, trailers, campers, motorcycles, snowmobiles, golf carts, or any other similar items shall be parked or stored on the roads or driveways within the Properties.

(b) No boats, trailers, buses, motor homes, campers (on or off supporting vehicles), motorcycles, snowmobiles, recreational vehicles, golf carts, trucks, industrial or commercial vehicles (both cabs or trailers), abandoned or inoperable vehicles (as defined below), or any other similar vehicles (excepting passenger automobiles and one ton or smaller pick-up trucks) shall be parked or stored in or upon a Lot except within enclosed structures approved in advance by the DEW, and no vehicle of any kind shall be maintained, repaired, repainted, serviced or rebuilt on any Lot except within a completely enclosed garage which fully screens the sight and sound of the activity from the Lots. This restriction shall not prevent the non-commercial washing and polishing of vehicles and boats, together with activities normally incidental thereto.

(c) Notwithstanding the foregoing, vehicles may be temporarily parked on driveways of Lots for loading, delivery or emergency purposes, but only for the time required to accomplish such purpose, and as necessary for the construction or maintenance of Improvements within the Properties upon compliance with the Master Development guidelines and any conditions imposed by the DEW.

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(d) An "abandoned or inoperable vehicle" shall mean any motorized vehicle which does not display a current motor vehicle license or which has not been driven under its own propulsion for a period of two (2) weeks or longer (excepting otherwise permitted vehicles parked by Lot Owners or Occupants on their Lot driveways while on vacation or during a period of illness), or which does not have an operable propulsion system within the vehicle.

(e) In the event that the Board or the DEW shall determine that a vehicle is abandoned or inoperable, or is otherwise in violation of the provisions of this Section 3.10, a written notice of violation describing said vehicle shall be personally delivered to the vehicle owner (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner cannot be reasonably ascertained), and if the offending vehicle is not removed within seventy-two (72) hours thereafter, the Board or DEW (as the case may be) shall have the right to remove and store the offending vehicle, or cause the vehicle to be removed and stored, at the sole expense of the Owner of the Lot on which the vehicle is located and to enter upon an Owner's Lot for such purpose, all without liability on the part of the Board or DEW. Any expense incurred by the Board or the Design, Environment and Wildlife Committee pursuant to this Section may be levied against any Owner as a Specific Assessment

(f) Motorcycles, and motorized trail bikes, mini-bikes, dirt bikes, all-terrain vehicles, mopeds, go-carts and similar motorized vehicles licensed for operation on public roads may be used or operated on the common Roadway System except as such use may be expressly limited in the Master Rules and Regulations.

3.11 Club Facilities. Use of all other services and amenities on the Properties, including, but not limited to the Area of Common Responsibility, Common Area and Open Area (including the Club Facilities), shall be managed by the Association and be subject to the Master Rules and Regulations.

3.12 Water Wells. Each Owner of a Lot acknowledges and agrees that any and all water necessary for the contemplated single family use of each of such Lots shall be furnished by the installation and maintenance of one water well and/or a rainwater collection system on each such Lot, at the sole expense of the respective Owner thereof, such water well installation, operation and maintenance to conform at all times to all applicable standards of the State of Texas, Blanco County, Texas and any other applicable regulatory agency, including without limitation, the Texas Commission on Environmental Quality where applicable. Groupings of the applicable Lots to be connected to a particular system shall be established by Declarant, and there shall be no more than four (4) Lots connected at any time to each such common well and distribution system (or such lesser number of Lots if applicable Texas law would otherwise require the operator(s) of such particular system to be regulated as a "public utility"). Each of such common well and distribution systems shall be operated and maintained at all times by a cooperative of the applicable Owners whose Lots are connected to the applicable system, in accordance with all applicable standards of the State of Texas, Blanco County, Texas and any other applicable regulatory agency, including without limitation, the Texas Commission on Environmental Quality. All of the operational and maintenance expenses for each such common well and distribution system shall be borne by the applicable Owners connected thereto.

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3.13 Sewage Disposal. Except where noted herein, each residential structure shall be connected to a private sewage disposal system constructed and located entirely within the boundaries of the applicable Lot at the sole expense of the Owner thereof, and such sewage disposal system shall conform to all applicable standards of the State of Texas, Blanco County, Texas or any other regulatory agency, including without limitation, the Texas Commission on Environmental Quality. No outdoor toilets shall be permitted, except for a twenty-four (24) month period during construction.

3.14 Open Area Use Restrictions. The Open Area is defined and described on the Master Plan and shall be owned by the Declarant and reserved for the benefit of the Association and its Members, their guests and invitees subject to the restrictions set forth in this Declaration and the following uses which are prohibited:

(a) The construction or location of any buildings, structures or accessory structures other than equestrian barns and facilities to be used on a day use basis by the Owners.

(b) Dredging, mining, excavation, or the exploration for, extraction or processing of oil and gas or minerals, or the removal or processing of rock, sand and gravel not associated with a wildlife or fisheries habitat improvement project, or the other industrial use of the Open Area.

(c) Off-road use of vehicles and off-trail use of any form of motorized transportation, except where needed for maintenance and upkeep of the Open Area, including bona fide agricultural purposes, excepting for the use of vehicles to respond to emergencies.

(d) The construction of roads, driveways, and parking areas.

(e) The storage of recreational vehicles (including, but not limited to boats, campers, and motor homes) and the dumping or storing of ashes, trash, garbage, junk, or other unsightly or offensive materials.

(f) Establishment or maintenance of any livestock feedlot. A feedlot is a relatively small, confined land area used for fattening livestock. The normal and usual feeding operations which have been traditionally conducted on ranches and farms in Blanco County are not considered feedlots.

(g) Clearing, grading or other movement of the natural topography of the land except such activities in connection with fisheries habitat improvement, wildlife habitat improvement, clearing for safety purposes (e.g. deadfall along roads, or next to other structures), or clearing for the fire safety based on an improved fire management plan.

3.15 No Further Subdivision. No Lot may be further subdivided by any Owner except that the Declarant, prior to the sale of the first Lot to an Owner not affiliated with the Declarant, and in the Declarant's sole discretion without Board or Association approval, may further subdivide any Lot described on the Final Plat.

ARTICLE IV - ARCHITECTURE AND LANDSCAPING

4.1 General. No structure shall be placed, erected, or installed upon any Lot, and no improvements (including staking, clearing, excavation, grading and other site work, exterior alterations of existing improvements, and planning or removal of landscaping materials) shall take place except in compliance with this Article, the Design Guidelines promulgated pursuant to Section 4.3 and the Blanco County Land Development Regulations.

Any Owner may remodel, paint or redecorate the interior of structures on his Lot without approval. However, modifications to the interior of patios, and similar portions of a Lot visible from outside the structures on the Lot shall be subject to approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications.

All structures constructed on any portions of the Properties shall be designed by and built in accordance with the plans and specifications of an architect licensed in the State of Texas and the International Residential Building Code of 2000 as amended from time to time. The DEW in its sole discretion may waive the requirement for a licensed architect provided plans and specifications have been stamped by a structural engineer. All plans and specifications shall be subject to review as provided herein.

This Article shall not apply to the development activities of the Declarant in accordance with the Master Plan, Final Plat and this Declaration.

This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.

The provisions of Article IV and the Design Guidelines shall not apply to any structures existing as of the date of this Declaration. They shall, however, apply to the medication, remodel or alteration of any structure existing as of the date of this Declaration.

4.2 Architectural Review.

(a) **Design, Environment and Wildlife Committee**. The Declarant shall appoint all three (3) of the original members of the Design, Environment and Wildlife Committee ("DEW") and all replacements until the third anniversary of this Declaration or the sale of seventy-five percent (75%) of the Lots to Owners not affiliated with the Declarant which ever first occurs. Thereafter, all of the members of the DEW shall be appointed by the Board. So long as the DEW is in existence, the DEW shall include at least one person designated by the Declarant, as a non-voting advisory member, in addition to at least two (2) members appointed by the Declarant or the Board. Such advisory member shall receive notice of all meetings of the DEW.

(b) **Fees; Assistance**. The DEW may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any

application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. The Declarant and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board shall include the compensation of such persons, if any, in the fee charged by the DEW.

4.3 Guidelines and Procedures.

(a) **Design Guidelines.** The Declarant shall prepare the initial Design Guidelines, which may contain general provisions applicable to all of the Lots. The Design Guidelines are intended to provide guidance to Owners, Builders and/or Architects regarding matters of particular concern to the DEW in considering applications hereunder. The Design Guidelines are not the exclusive basis for decisions of the DEW, and compliance with the Design Guidelines does not guarantee approval of any application. The Design Guidelines shall set forth the requirements for any grading done on a Lot and shall also include an approved landscape "plant palette" which shall provide for the exclusive use of plant species native to the Texas Hill Country. Such plant palette shall be designed to include the existing mix, distribution and densities of the plants on site. The intent will be to replace the habitat as well as the plant species that compose the habitat.

The Declarant shall have sole and full authority to amend the Design Guidelines as long as it owns any portion of the Properties, notwithstanding the reviewing authority of the DEW, unless the Declarant delegates the power to amend to the DEW. Upon termination or delegation of the Declarant's right to amend, the DEW shall have the authority to amend the Design Guidelines with the consent of the Board. Any amendments to the Design Guidelines shall not require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Design Guidelines less restrictive.

The DEW shall make the Design Guidelines available to Owners, Builders and/or Architects who seek to engage in development or construction within the Properties. At the Declarant's discretion, such Design Guidelines may be recorded in the Public Records, in which event the recorded version, as it may unilaterally be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

(b) **Procedures.** Prior to commencing any work within the scope of this Article ("Work"), an Owner shall submit to the DEW an application for approval of the proposed Work in such form as the Design Guidelines or the DEW may specify. Such application shall include plans and specifications ("Plans") showing site layout, grading, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction, as applicable. The Design Guidelines and the DEW may require the submission of such additional information as may be reasonably necessary to consider any application. The Plans shall be in such form and shall contain such information as may be reasonably required pursuant to the Design Guidelines.

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In reviewing each submission, the DEW may consider any factors it deems relevant, including without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements.

The DEW shall, within thirty (30) days after receipt of a completed application and all required information, respond in writing to the applicant at the address specified in the application. The response may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application. The DEW may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

In the event that the DEW fails to respond in writing within sixty (60) days of submission, approval shall be deemed to have been given, with the exception of any Development proposed outside of the Boundaries of the Building Envelope which will be deemed automatically disapproved and denied. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted pursuant to Section 4.5. Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U.S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the applicant.

Until expiration of the Declarant's rights under this Article, the DEW shall notify the Declarant in writing within three (3) business days after the DEW has approved any applications relating to proposed Work within the scope of matters delegated to the DEW by the Declarant. The notice shall be accompanied by a copy of the application and any additional information which the Declarant may require. The Declarant shall have ten (10) days after receipt of such notice to veto any such actions, in its sole discretion, by written notice to the DEW and the applicant.

If construction does not commence on a project for which Plans have been approved within two year after the date of approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to reapply for approval before commencing the proposed Work.

The DEW may, by resolution, exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

No flowers, shrubs, trees, grasses, or other landscaping shall be allowed on any portions of the Properties, except in accordance with the landscape plant palette for the Properties approved from time to time by the DEW. The DEW may make amendments to the plant palette and such amendments shall apply whether or not recorded in the Official Records of Blanco County, Texas.

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(c) **Obligation to Complete Construction**. Regardless of the type of improvement being constructed on a Lot, once construction has commenced, it must be completed within twenty-four (24) months from the date construction commenced unless otherwise specified in the notice of approval or unless the DEW grants an extension in writing, which it shall not be obligated to do. Completion of improvements shall mean that a certificate of occupancy has been issued by the local governing body empowered to do so and that they are in a condition suitable for immediate occupancy by the Owner or its occupant.

4.4 No Waiver of Future Approvals. Each Owner acknowledges that the persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed Work until the Work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the DEW may refuse to approve similar proposals in the future. Approval of applications or Plans for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, Plans, or other matters subsequently or additionally submitted for approval.

4.5 Variances. The DEW may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless approved in writing by the DEW; (b) be contrary to this Declaration; or (c) estop the DEW from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

4.6 Limitation of Liability. The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Properties but shall not create any duty to any Person. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only, and the DEW shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements or compliance with plans and specifications, nor for ensuring that all dwellings are of comparable quality, value or size or of similar design. Neither the Declarant, the Association, the Board, any committee, nor member of any of the foregoing shall be held liable for soil conditions, drainage or other general site work, or for any defects in plans revised or approved hereunder, or for any injury, damages, or loss arising out of the manner or quality of approved construction on or modifications to any Lot. In all matters, the DEW and all persons comprising the DEW shall be defended and indemnified by the Association as provided in Section 7.6.

4.7 Certificate of Compliance. Any Owner may request that the DEW issue a certificate of architectural compliance certifying that there are no known violations of this Article or the Design Guidelines. The Association shall either grant or deny such request within thirty (30)

days after receipt of a written request and may charge a reasonable administrative fee for issuing such certificates. Issuance of such a certificate shall estop the Association from taking enforcement action with respect to any condition as to which the Association had notice as of the date of such certificate.

4.8 Standard of Construction. All improvements to the Properties made by the Declarant have been or will be constructed in accordance with all applicable city, county, state and federal building codes. Declarant does not warrant that its improvements to the Properties exceed, in any manner, the minimum building standards required by applicable county, state and federal laws.

4.9 Enforcement. Any structure, improvement or landscaping placed or made in violation of this Article or the Design Guidelines shall be deemed to be nonconforming. Upon written request from the Declarant, the DEW or the Board, Owners shall, at their own cost and expense, remove such structure or improvement and restore the property to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Declarant, the Association or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with interest at the maximum rate then allowed by law, may be assessed against the benefited Lot and collected as a Specific Assessment.

All approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved Work and all Work previously approved with respect to the same Lot, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved Work, the Declarant or the Association shall be authorized, after notice to the Owner of the Lot and an opportunity to be heard in accordance with Section 7.2(d) of the By-Laws, to enter upon the Lot and remove or complete any incomplete Work and to assess all costs incurred against the Lot and the Owner thereof as a Specific Assessment.

Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded from the Properties, subject to the notice and hearing procedures contained in Section 7.2(d) of the By-Laws. In such event, neither the Declarant, the Association its officers, or directors shall be held liable to any Person for exercising the rights granted by this paragraph.

In addition to the foregoing, the Association and the Declarant shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the DEW.

4.10 Development and Use Restrictions. All development of the Properties shall conform to the following requirements:

(a) **Provisions in Addition to County Land Use Regulations**. Conformity with any and all applicable land use regulations of Blanco County (the "Blanco County Land Development Regulations") shall be required, in addition to the requirements of this Declaration.

(b) **Authorized Use**. Only single-family residential use shall be permitted, together with the keeping of domestic household pets subject to the limitations set forth herein. During such time that Lot 74 is utilized for the benefit of the Association, authorized uses may include agricultural use.

(c) **Authorized Structures**. No building or structure shall be constructed on any Lot, except one single family residence, one guest house, garage or storage structures, swimming pool or tennis court or similar structure, not to exceed a total of four (4) structures on any one Lot. No helipad, landing strip or other similar structure for the takeoff or landing of any type of aircraft shall be permitted on any Lot.

(d) **Building Envelope**. All Structures and other authorized improvements shall be constructed within a Building Envelope. Each Owner may designate a Building Envelope within each Lot owned by such Owner at the time of their first filing, which may not exceed one acre in size and can be either a circle or a rectangle. With the exception of habitat enhancements noted below, no Development shall be permitted on any Lot outside of the Building Envelope except for access driveways, utility installations, well, septic systems and bridges.

4.11 Construction. No pre-fabricated or modular structures shall be permitted on any Lot. Previously put to use materials designed for architectural detailing on the outside of structures may be permitted by the DEW, in the DEW's sole discretion.

4.12 Height, Size and Floor Area Limitations. No building shall be greater than thirty (30) feet in height except that elements of the roof up to thirty-eight (38) feet in height may be permitted at the discretion of the DEW committee in accordance with the Design Guidelines. Building height shall be measured from existing grade to the highest point of the roof. The principal residential structure, exclusive of the garage, shall have a minimum floor area of two thousand four hundred (2,400) square feet. Up to 15% of the floor area of the primary residence may include attached, covered outdoor living space. If a guest house is constructed on a Lot prior to the principal residential structure, the house shall have a minimum floor area of fifteen hundred (1,500) square feet, exclusive of the garage but inclusive of the outdoor living space provision stated above. Any guest house constructed on a Lot following completion of the primary home must have an enclosed living space of not less than eight hundred (800) square feet, exclusive of open and closed porches, decks, terraces, patios, balconies, driveways and garages. All other restrictions relating to maximum allowable square footage for principal residences, guest houses, garages and barns, other than as provided for herein or in the Design Guidelines, shall comply with the Blanco County Land Development Regulations.

4.13 Utilities. Electrical and telephone utility lines have been installed underground in the access road rights of way. Connections from improvements on Lots to the underground utility lines shall be completed at the Owners' expense, and shall be constructed underground. Above ground utility installations are prohibited. Any propane tank installed on a Lot by an Owner shall be buried underground.

4.14 Temporary Structures Prohibited. No temporary structures, such as trailers, tents, shacks or other similar buildings shall be permitted on any Lot, except during construction or as authorized by the Board.

4.15 Satellite Dishes. A 24" or smaller diameter satellite dish shall be permitted on any Lot, provided that any satellite dish must be visually shielded from adjacent Lot with shielding approved by the DEW before such satellite dish is installed.

4.16 Berms. No berms shall be constructed or maintained on any Lot unless the DEW, in its sole discretion approves such construction and maintenance and finds the same to be beneficial between adjacent Lots. In connection with the foregoing, the Board may request, at the expense of the Owner seeking approval, information relating to the possible impact of the berm on other Lots, which information may include appropriate engineering studies. An elevated leach field required by regulatory authorities or a berm constructed for a pond shall not be considered to be a berm provided it is approved by the DEW.

4.17 Improvement of Wetlands-Wildlife Habitat. Notwithstanding any provision herein to the contrary, the Board may allow development outside of the Building Envelope on a Lot for the sole purpose of improving wetlands and/or wildlife habitat. Any proposal for wetland improvement or wildlife habitat Improvement shall be reviewed and approved by the Texas Parks and Wildlife Department and/or any other governmental authority having jurisdiction before submittal to the Board.

ARTICLE V – MAINTENANCE AND REPAIR

5.1 Maintenance of Lots. Each Owner shall maintain his or her Lot and any and all improvements thereon, including any pools, ponds, etc., and any and all landscaping situated on the Lot within any designated "Building Envelope" as such term is defined in the Design Guidelines in a manner consistent with the Governing Documents, the Community-Wide Standard and all applicable covenants.

5.2 Maintenance of Vacant Lots. Each Owner shall maintain his or her vacant Lot by providing for adequate dust control, providing for adequate weed control, and the elimination of all fire hazards on the property. Vacant Lots will be subject to rules adopted by the DEW.

PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION

ARTICLE VI – THE ASSOCIATION AND ITS MEMBERS

6.1 Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility. The Association also shall be the primary entity responsible for enforcement of the Governing

Documents. The Association shall perform its functions in accordance with the Governing Documents and the laws of the State of Texas.

6.2 Membership. Every Owner of a Lot shall be a Member of the Association. There shall be only one membership per Lot. If a Lot is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 6.3(c) and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association except where such privileges may be restricted by the Master Rules.

6.3 Voting. The Association shall have one class of membership. Members shall have one equal vote for each Lot in which they hold the interest required for membership under Section 6.2. All votes shall be cast as provided in Section 6.3(a).

(a) **Exercise of Voting Rights**. The vote for each Lot owned by a Member shall be exercised by the Owner of the Lot. In any situation where there is more than one Owner of such Lot, the vote for such Lot shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Lot's vote shall be suspended if more than one Person seeks to exercise it.

(b) **Commencement of Voting Rights**. Voting rights as to each Lot shall vest upon the commencement of assessment obligations for such Lot.

ARTICLE VII – ASSOCIATION POWERS AND RESPONSIBILITIES

7.1 Acceptance and Control of Association Property.

(a) The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property.

(b) The Declarant and its designees may convey real or personal property to the Association.

7.2 Maintenance of Area of Common Responsibility, Common Area and Open Area.

(a) The Association shall maintain, in accordance with the Community-Wide Standard, the Area of Common Responsibility, the Common Area and the Open Area, which shall include, but need not be limited to:

(i) All portions of any guardhouse and electronic security devices located on or adjacent to the Properties, the Club Facilities, any and all ponds, lakes or streams

located on the Area of Common Responsibility, the Common Area and the Open Area and any and all private roads owned by the Association, entrance gates, and bridges located on the Area of Common Responsibility, the Common Area and the Open Area;

(ii) Such portions of any additional property included within the Area of Common Responsibility, the Common Area or the Open Area as may be dictated by this Declaration, any Supplemental Declaration, any Covenant to Share Costs, or any contract or agreement for maintenance thereof entered into by the Association;

(iii) Any property and facilities owned or rented by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, including, but not limited to, administrative offices of the Association. Such property and facilities shall be identified by written notice from the Declarant to the Association and shall remain a part of the Area of Common Responsibility, Common Area or Open Area and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association;

(iv) The Association may maintain other property which it does not own if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

The Association shall not be liable for any damage or injury occurring on or arising out of the condition of, property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

(b) The Association shall maintain the facilities and equipment within the Area of Common Responsibility and the Common Area in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless at least sixty-six percent (66%) of the Members in the Association agree in writing to discontinue such operation.

Except as provided above, the Area of Common Responsibility, the Common Area and Open Area shall not be reduced by amendment of this Declaration or any other means except with the prior written approval of the Declarant as long as the Declarant owns any property described on **Exhibit A** of this Declaration.

(c) The costs associated with maintenance, repair and replacement of the Area of Common Responsibility, Common Area and Open Area shall be a Common Expense; provided, the Association may seek reimbursement from the owner(s) of, or other Person responsible for, certain portions of the Area of Common Responsibility, Common Area and Open Area pursuant to this Declaration, the Covenant to Share Costs, other recorded covenants, or agreements with the owner(s) thereof.

7.3 Insurance.

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(a) **Required Coverages**. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements within the Area of Common Responsibility to the extent that the Association has assumed responsibility in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement costs of the insured improvements under current building ordinance and codes;

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least three-million dollars ($3,000,000.00) per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits. If the policy does not contain "severability of interest" in its terms, the Association shall acquire an endorsement to preclude the insurer's denial of a Lot Owner's claim because of negligent acts of the Association or of other Lot Owners;

(iii) Workers' compensation insurance and employers' liability insurance, if and to the extent required by law;

(iv) Directors' and officers' liability coverage with policy limits deemed prudent by the Board;

(v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's best business judgment but not less than an amount equal to one-fourth (1/4) of the annual Base Assessments on all Lots plus reserves on hand. Fidelity insurance policies shall contain a wavier of all defenses based upon the exclusion of Person serving without compensation; and

(vi) Such additional insurance as the Board, in its best business judgment, determines advisable.

Premiums for all insurance on the Area of Common Responsibility shall be assessed by the Board as a Common Expense.

(b) **Policy Requirements**. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in Blanco County, Texas. All Association

policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.3(a). In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with Section 7.2(d) of the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Lots as a Specific Assessment.

All insurance coverage obtained by the Board shall:

(i) Be written with a company authorized to do business in the State of Texas;

(ii) Be written in the name of the Association as trustee for the benefited parties.

(iii) Not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(iv) Contain an inflation guard endorsement;

(v) Include an agreed amount endorsement if the policy contains a co-insurance clause;

(vi) Provide a waiver of subrogation under the policy against any Owner or household member of an Owner;

(vii) Include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure;

(vii) Include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association;

(ix) Provide that the policy will be primary, even if a Lot Owner has other insurance that covers the same loss.

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In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(i) A waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, its attorneys, the Owners and their tenants, servants, agents, and guests;

(ii) A waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) An endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(iv) An endorsement requiring at least thirty (30) days prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(v) A provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any related to the loss.

(c) **Restoring Damaged Improvements**. In the event of damage to or destruction of property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the property shall be repaired or reconstructed unless at least seventy-five percent (75%) of Members decide within sixty (60) days after the loss not to repair or reconstruct. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such sixty (60) day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members or the Owners of Lots, as appropriate, and placed in a capital improvements account.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 7.3(a).

7.4 Compliance and Enforcement. Every Owner and occupant of a Lot shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents after notice and a hearing in accordance with the procedures set forth in Section 7.2(d) of the By-Laws. Such sanctions may include, without limitation:

(a) Imposing reasonable monetary fines (which shall not, except in the case of nonpayment of assessments, constitute a lien upon the violator's Lot). In the event that any occupant, guest or invitee of a Lot violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board;

(b) Suspending an Owner's right to vote;

(c) Suspending any Person's right to use any Common Area, Open Area or Club Facilities within the Properties; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot;

(d) Suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge owed to the Association;

(e) Exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;

(f) Requiring an Owner, as its own expense, to remove any structure or improvements on such Owner's Lot in violation of Article IV and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(g) Without liability to any Person, precluding any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of Article IV and the Design Guidelines from continuing or performing any further activities in the Properties; and

(h) Levying Specific Assessments to cover costs incurred by the Association to bring a Lot into compliance with Governing Documents.

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In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with the procedures set forth in Section 7.2(d) of the By-Laws:

(a) Exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); and

(b) Bringing suit at law or in equity to enjoin any violation or to recover monetary damages to both.

In addition to any other enforcement rights, if an Owner fails to properly perform his or her maintenance responsibility, the Association may record a notice of violation in the Public Records or perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner as a Specific Assessment. Except in an emergency situation, the Association shall provide the Owner reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

All remedies set forth in the Governing Document shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take any action if the Board reasonably determines that the Association's position is not strong enough to justify taking such action. Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or estop the Association from enforcing any other covenant, restriction or rule.

The Association, by contract or other agreement, may enforce applicable city and county ordinances, if applicable, and permit Blanco County, Texas to enforce ordinances within the Properties for the benefit of the Association and its Members.

7.5 Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

7.6 Indemnification of Officers, Directors and Others. The Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement or any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under Texas law and Section 14 of the By-Laws.

7.7 Enhancement of Safety. The Association may provide for a security patrol within the Properties, and the Association may, but shall not be obligated to, maintain or support certain other activities within the Properties designed to enhance the safety of the Properties. Neither the Association nor the Declarant shall in any way be considered insurers or guarantors of security within the Properties, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any patrol, systems, or measures, including any mechanism or system for limiting access to the Properties, cannot be compromised or circumvented, nor that any such patrol, systems, or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the patrol or system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Lot that the Association, its Board and committees, and the Declarant are not insurers of safety and that each Person using the Properties assumes all risks of person injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties.

7.8 Provision of Services. The Association shall be authorized but not obligated to enter into and terminate, in the Board's discretion, contracts or agreements with other entities, including Declarant, to provide services to and facilities for the Members of the Association and their guests, lessees and invitees and to charge use and consumption fees for such services and facilities. By way of example, some services which might be offered include concierge services, property management services, landscape maintenance, pest control, caretaker, transportation, utilities, boarding of horses, and similar services.

ARTICLE VIII – ASSOCIATION FINANCES

8.1 Budgeting and Allocating Common Expenses. At least sixty (60) days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses, including the Club Facilities and any and all expenses associated with the enhancement of safety and the provision of services as set forth in Sections 7.7 and 7.8, for the coming year, including any contributions to be made to a reserve fund pursuant to Section 8.2. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Lots, and the amount to be generated through the levy of Base Assessments, Special Assessments and Specific Assessments against each.

The Association is hereby authorized to levy Base Assessments equally against all Lots subject to assessment under Section 8.7 to fund the Common Expenses. In determining the Base Assessment rate per Lot, the Board may consider any assessment income expected to be generated from any additional Lots reasonably anticipated becoming subject to assessment during the fiscal year.

The Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 8.8(b), which may be either a contribution, an advance against future assessments due from the Declarant, or a loan, in the Declarant's discretion. Any such subsidy shall be disclosed as a line item in the

income portion of the budget. The payment of such subsidy in any year shall not obligate the Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Declarant.

The Board shall send a copy of the final budget, together with notice of the amount of the Base Assessment to be levied pursuant to such budget, to each Owner not less than forty-five (45) nor more than sixty (60) days prior to the effective date of such budget; provided, however, if the Base Assessment is increased from the previous year's Base Assessment, the Board shall send notice of the increase by first class mail to the Owners not less than thirty (30) nor more than sixty (60) days prior to the increased Base Assessment becoming due. Such budget and assessment shall automatically become effective unless objected to in writing by an Owner within 10 days of the effective date of the budget.

Failure of the members to approve a budget or failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time the Association may retroactively assess any shortfalls in collections.

The Board may revise the budget and adjust the Base Assessment from time to time during the year, subject to the notice requirements and the limitations on increases of assessments provided for in Section 8.6.

8.2 Budgeting for Reserves. The Board shall prepare and review at least annually a reserve budget for the Area of Common Responsibility, the Common Area and Club Facilities and the Open Area. The budget shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall include in the Common Expense budget adopted pursuant to Section 8.1, a capital contribution to fund reserves in an amount sufficient to meet the projected need with respect both to amount and timing by annual contributions over the budget period.

8.3 Special Assessments. In addition to other authorized assessments, the Association may, subject to the limitations of Section 8.6, levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership, if Special Assessment is for Common Expenses or against an individual Lot or Lots or if such Special Assessment is for an unbudgeted expense relating to less than all of the Lots. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. The Board shall provide notice by first class mail to the Owner(s) of the Lot(s) subject to the Special Assessment not less than thirty (30) nor more than sixty (60) days prior to the Special Assessment becoming due.

8.4 Specific Assessments. The Association shall have the power to levy Specific Assessments against a particular Lot as follows:

(a) To cover the costs, including overhead and administrative costs, of providing services to a Lot upon request of an Owner pursuant to any menu of special services which may be offered by the Association (which might include items identified in Section 7.8). Specific Assessments for special services may be levied in advance of the provision of the requested service; and

(b) To cover costs incurred in bringing a nonconforming Lot into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of a nonconforming Lot, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the nonconforming Lot Owner prior written notice and an opportunity for a hearing, in accordance with Section 7.2(d) of the By-Laws, before levying any Specific Assessment under this subsection (b).

8.5 Limitation of Increases of Assessments. Notwithstanding any provision to the contrary, and except for assessment increases necessary for emergency situations or to reimburse the Association pursuant to Section 8.4, the Board may not impose a Base Assessment that is more than twenty percent (20%) greater than each of those assessments for the immediately preceding fiscal year, nor impose a Special Assessment which in the aggregate exceeds five percent (5%) of the budgeted Common Expenses for the current fiscal year, without a majority vote of a quorum of the Members which are subject to the applicable assessment at a meeting of the Association, or action without meeting by written ballot in lieu thereof signed by all of the Members of the Association.

For purposes of this Section, "quorum" means more than fifty percent (50%) of the total voting power of the Association subject to the applicable assessment. For purposes of this Section, the term "Base Assessment" shall be deemed to include the amount assessed against each Lot plus a pro rata allocation of any amounts the Association received through any subsidy or maintenance agreement, if any, in effect for the year immediately preceding the year for which the assessment is to be increased.

An emergency situation is any one of the following:

(a) An extraordinary expense required by an order of a court;

(b) An extraordinary expense necessary to repair or maintain the Properties or any part of them for which the Association is responsible where a threat to personal safety on the Properties is discovered; or

(c) An extraordinary expense necessary to repair or maintain the Properties or any part of them for which the Association is responsible which could not have been reasonably foreseen by the Board in preparing and distributing the pro forma budget pursuant to Section 8.1. However, prior to the imposition or collection of such an assessment, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. Such resolution shall be distributed to the Members with the notice of such assessment. In no event shall such resolution become effective against the Declarant so long as the Declarant owns

any Lot(s) within the Properties unless the Declarant consents in writing by executing any such resolution.

8.6 Authority to Assess Owners; Date of Commencement of Assessments; Time of Payment. The Declarant hereby establishes and the Association is authorized to levy assessments as provided for in this Article and elsewhere in the Governing Documents. Subject to Section 8.1 and 8.7, the obligation to pay the assessments provided for herein shall commence as to all Lots on the first day of the month following the first conveyance of a Lot to an Owner. The first annual assessment shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Lot.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Lot and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his or her Lot, the Board may require the outstanding balance on all assessments to be paid in full immediately.

8.7 Personal Obligation.

(a) Subject to the provisions of Section 15.5 hereof:

Each Owner, by accepting a deed of entering into a recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of eighteen percent (18%) per annum or such other rate as the Board may establish, subject to the limitations of Texas law), late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Lot until paid in full. Upon a transfer of title to a Lot, the grantee shall not be personally liable for any assessments and other charges due at the time of conveyance unless expressly assumed by him/her, but such transferred Lot shall remain subject to any liens imposed upon it pursuant to Section 8.8 herein. No first Mortgagee who obtains title to a Lot by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner may exempt himself from liability for assessments by non-use of the Area of Common Responsibility, the Common Area or the Open Area, by abandonment of his Lot, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or

allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

The Association shall, upon request, furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(b) **Declarant's Obligations for Assessments**. The Declarant is subject to the payment of assessments against Lots which it owns; provided, however, any Lot that they own which does not include a structural improvement for human occupancy shall be exempt from payment of that portion of any such assessment which is for the purpose of defraying expenses and reserves directly attributable to the existence and the use of the structural improvements.

The Declarant shall also be exempt from the payment of that portion of any assessment which is for the purpose of defraying expenses and reserves directly attributable to the existence and use of any Area of Common Responsibility, the Common Area and Open Area that is not complete at the time assessments commence. Any exemption from the payment of assessments attributed to the Common Area or Open Area shall be in effect only until such area has been placed into use.

8.8 Lien for Assessments. Each Owner, by his or her acceptance of a deed to a Lot, hereby vests in the Association and its agents the right and power to bring all appropriate actions against such Owner personally for the collection as a debt of any unpaid and delinquent billings for Base Assessments, Common Assessments, Special Assessments, Specific Assessments, interest, late fees, enforcement costs and other charges owing by such Owner in accordance with the terms hereof. Additionally, in order to secure payment of any billings for Base Assessments, Common Assessments, as well as Special Assessments, Specific Assessments, interest, late fees, enforcement costs and other charges due hereunder, Declarant hereby retains for the benefit of the Association and its agents, and each Owner by his or her acceptance of a deed to a Lot, hereby grants the Association and its agents a lien for such Base Assessments, Common Assessments, as well as Special Assessments, Specific Assessments, interest, late fees, enforcement costs and other charges for which such Owner is responsible under the terms hereof. The Board, acting on behalf of the Association, is authorized to record a notice of any unpaid amounts secured by such lien in the Public Records, which shall include a description of the applicable Lot and the name of the Owner thereof and the basis for the amount of the lien. Said lien shall be enforceable by the Association or its agents through all appropriate methods available under applicable Texas law for the enforcement of such liens, including without limitation, non-judicial foreclosure pursuant to Section 51.002 of the Texas Property Code (as amended from time to time), and the Declarant and each such Owner hereby expressly grant to the Association a power of sale in connection with said lien. The Association may designate a trustee in writing from time to time to post or cause to be posted the required notices and to conduct such foreclosure sale. The trustee may be changed at any time and from time to time by an instrument in writing and signed by the President or a Vice President of the Association and attested by the Secretary or any Assistant Secretary of the

Association and filed for record in the Public Records. The lien herein retained and granted is and shall be expressly subordinate in all respects to any Mortgage predating the charge in question (as evidenced by the recording date of a notice of unpaid assessments in the Public Records). Any holder of a Mortgage that predates the date of the charge in question and who acquires title to a Lot through foreclosure of its Mortgage or acceptance of a deed in lieu of foreclosure thereunder, shall not be liable for the unpaid portion of any such charges relating to the Lot in question that arose prior to such acquisition. Additionally, after any such foreclosure or deed in lieu of foreclosure, such Lot shall remain subject to this Declaration and the above-described lien and the new Owner of such Lot shall thereafter be personally liable for all charges of the type described above which relate to such Lot and which become due after such new Owner acquires title to said Lot by foreclosure or by acceptance of a deed in lieu of foreclosure. Except as otherwise provided above as to holders of Mortgages or by applicable law, no sale or transfer of any Lot shall (a) relieve any Owner thereof from personal liability for any of such unpaid charges attributable to the applicable Lot which become due prior to the date of such sale or transfer or (b) satisfy or extinguish the above-described lien in respect of such unpaid charges.

PART FOUR: COMMUNITY DEVELOPMENT

ARTICLE IX – EXPANSION OF THE COMMUNITY

9.1 Expansion by the Declarant. For a period of five-years following the execution hereof, Declarant may unilaterally subject to the provisions of this Declaration to all or any portion of the real property contiguous to the real property described on **Exhibit A**.

Declarant may transfer or assign this right to annex property, provided that such transfer is memorialized in a written, recorded instrument executed by Declarant. Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any of the Property in any manner whatsoever.

Such annexation shall be accomplished by filing a Supplemental Declaration in the Public Records describing the property to be annexed and specifically subjecting it to the terms of this Declaration. Such Supplemental Declaration shall not require the consent of Members, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

9.2 Additional Covenants and Easements. The Declarant may subject any portion of the Properties to additional covenants and easements, including covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through the various Assessments as provided for herein. Such additional covenants and easements may be set forth either in a Supplemental Declaration subjecting such property to this Declaration or in a separate Supplemental Declaration referencing property previously subjected to this Declaration. If the property is owned by someone other than Declarant, then the consent of the Owner(s) shall be necessary and shall be evidenced by their execution of the Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to, or

otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

9.3 Effect of Filing Supplemental Declarations. Any Supplemental Declaration filed pursuant to this Article shall be effective upon recording in the Public Records unless otherwise specified in such Supplemental Declaration. On the effective date of the Supplemental Declaration, any additional property subjected to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration.

9.4 Budget Considerations. As additional Lots are annexed to the Properties pursuant to this Article IX, the budget of the Association may be affected, as well as assessment obligations of the Owners as a result thereof.

ARTICLE X – ADDITIONAL RIGHTS RESERVED TO DECLARANT

10.1 Withdrawal of Property. The Declarant reserves the right to amend this Declaration so long as it has a right to annex additional property pursuant to Article IX, without prior notice and without the consent of any Person, for the purpose of removing property then owned by the Declarant, its affiliates, or the Association from the coverage of this Declaration, to the extent originally included in error or as a result of any changes in the Declarant's plans for the Properties or the Master Plan, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Properties.

10.2 Marketing and Sales Activities. The Declarant may maintain and carry out upon Lots owned by Declarant such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the sale of Lots, including, but not limited to, signs, and other forms of advertising. The Declarant and authorized invitees shall have easements for access over the Lots.

Declarant shall also have the right to conduct marketing and sales activities on Lots that they own. The Declarant shall have easements for access over the Properties to and use of such facilities together with the right to attract, invite or bring prospective purchasers of Lots into the Lots owned by Declarant at all times.

10.3 Right to Develop. The Declarant and its employees, agents and designees shall have a right of access and use and an easement over and upon all of the Area of Common Responsibility, the Common Area and the Open Area for the purpose of making, constructing and installing improvements to such areas as it deems appropriate in its sole discretion. Declarant agrees that it or the Person exercising such easement shall be responsible for any damage caused to such areas as a result of the exercise of the easement.

Declarant intends to develop the Properties in accordance with the Master Plan. Every Person that acquires any interest in the Properties acknowledges that The Preserve at Walnut Springs is a master planned community, the development of which is likely to extend over many

years, and agrees not to protest, challenge or otherwise object to changes in the Master Plan as it relates to the Properties.

10.4 Right to Approve Additional Covenants. No Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by the Declarant and recorded in the Public Records.

10.5 Right to Approve Changes in Community Standards. No amendment to or modification of any Master Rules and Regulations or Design Guidelines shall be effective without prior notice to and the written approval of Declarant so long as the Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1.

10.6 Right to Transfer or Assign Declarant Rights. Any or all of the special rights and obligations of the Declarant set forth in this Declaration may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation or enlarge a right beyond that which the Declarant has under this Declaration. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one-time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to record any written assignment unless necessary to evidence Declarant's consent to such exercise.

10.7 Exclusive Rights to Use Name of Development. No Person shall use the name "The Preserve at Walnut Springs" or any derivative of such name in any printed or promotional material without the Declarant's prior written consent. However, Owners may use the name "The Preserve at Walnut Springs" in printed or promotional matter where such term is used solely to specify that particular property is located within The Preserve at Walnut Springs, and the Association shall be entitled to use the words "The Preserve at Walnut Springs" in its name.

10.8 Special Districts. The Declarant hereby reserves the right to create an assessment, water, road or any other type of special district which, in its sole opinion, are beneficial to the Properties. The Association and each and every Owner, by accepting a deed to a Lot, agrees to cooperate with Declarant in creating and implementing such district. Nothing in this Section shall create an obligation on Declarant to create or implement such districts.

10.9 Termination of Rights. The rights contained in this Article, except for Declarant's right to maintain a permanent sales office, shall not terminate until the recording by Declarant of a written statement that all Lots have been sold to owners not affiliated with Declarant. Declarant may from time to time relinquish and surrender one or more but less than all of the reserved rights, in which event the unrelinquished reserved rights shall remain fully valid and effective for the remainder of the term thereof.

PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY

The nature of living in a planned community requires the creation of special property rights and provisions to address the needs and responsibilities of the Owners, the developer, the Association, and others within or adjacent to the community.

ARTICLE XI - EASEMENTS

11.1 Easements in Area of Common Responsibility, Common Area and Open Area. The Declarant grants to each Owner a non-exclusive right and easement of use (subject to the rights of other Owners, Members and the Association), access, and enjoyment in and to the Area of Common Responsibility, Common Area and Open Area, subject to:

(a) The Governing Documents and any other applicable covenants;

(b) Any restrictions or limitation contained in any deed conveying such property to an Owner Association;

(c) The right of the Board to adopt rules regulating the use and enjoyment of the area of Common Responsibility;

(d) The right of the Board to suspend the right of an Owner to use Club Facilities within the Common Area (i) for any period during which any charge or assessment against such Owner's Lot remains delinquent, and (ii) for a period not to exceed thirty (30) days for a single violation or for a longer period in the case of any continuing violation of the Governing Documents after notice and a hearing pursuant to Section 3.23 of the By-Laws:

Any Owner may extend his or her right of use and enjoyment of the Area of Common Responsibility, Common Area and Open Area to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Lot shall be deemed to have assigned all such rights to the lessee of such Lot for the period of the lease.

11.2 Easements for Drainage, Utilities.

(a) All dedications, limitations, restrictions and reservations of easements, including those for drainage, shown on any final map of the Properties are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set forth in this Declaration.

(b) The Declarant reserves for itself, so long as the Declarant owns any Property described on **Exhibit A** of this Declaration, and grants to the Association and all utility providers,

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perpetual non-exclusive easements throughout all of the Properties (but not through a structure) to the extent reasonable necessary for the purpose of:

(i) Installing utilities and infrastructure, including without limitation, cable and other systems for sending and receiving data and/or other electronic signals; security and similar systems: walkways, pathways and trails; drainage systems and signage; to serve the Properties;

(ii) Inspecting, maintaining, repairing and replacing such utilities and infrastructure to serve the Properties; and

(iii) Access to read utility meters.

(c) Declarant also reserves for itself the non-exclusive right and power to grant and record in the Public Records such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of the property described on **Exhibit A**.

(d) All work associated with the exercise of the easements described in subsections (b) and (c) of this Section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Lot, nor shall it unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

11.3 Easements to Serve Additional Property. The Declarant hereby reserves for itself and its duly authorized agents, successors, assigns, and mortgagees, an easement over the Area of Common Responsibility for the purposes of enjoyment, use, access, and development of a property annexed into the Master Plan, whether or not such property is made subject to the Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Area of Common Responsibility for construction of roads and for connecting and installing utilities on such property.

11.4 Easements for Maintenance, Emergency and Enforcement. The Declarant grants to the Association easements over the Area of Common Responsibility and the Open Area as necessary to enable the Association to fulfill its maintenance responsibilities under Section 7.2. The Association shall also have the right, but not the obligation, to enter upon any Lot, but not to enter any structure thereon, for emergency, security, and safety reasons and to inspect for the purpose of ensuring compliance with and to enforce the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

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11.5 Easements for Cross-Drainage. Every Lot shall be burdened with easements for natural drainage of storm water runoff from other portions of the Properties; provided, no Person shall alter the natural drainage on any Lot to increase materially the drainage of storm water onto adjacent portions of the Properties without the consent of the Owner(s) of the affected property and the Board.

11.6 Easement for Emergency Vehicles. The Properties are hereby burdened with an easement allowing all policemen, firemen, ambulance personnel, and similar emergency personnel entry to perform their duties, including the enforcement of traffic regulations.

11.7 Title to and Use of Roads. Title to the Roadway System shall be conveyed to the Association, and subject to the provisions of this Declaration. Each Owner and occupant and each of their guests or invitees shall have a non-exclusive easement and right-of-way to use such Roadway System for vehicular and pedestrian ingress, egress, access to and from their Lot and for private road purposes.

The Association shall have the right to control vehicular circulation through the Properties by such means as establishing speed limits, by installing speed bumps or by any other means reasonably adopted by the Association.

11.8 Recreation Trail Easements. Subject to (a) the Master Rules and Regulations promulgated from time to time by the Board, (b) existing easements and reservations of rights affecting such land, and (c) the requirements of any applicable law, each Owner shall have a right and non-exclusive easement of use and enjoyment of those portions of the Properties designated as Recreation and Trail Easements within the Open Area as shown on the Master Plan. The right and easement to use the Recreation and Trail Easements shall be appurtenant to and shall pass with the title to every Lot, subject to the following limitations:

(a) The right of the Board to limit the time that such easements can be used, the manner and scope of such use, and the number of guests that have access thereto and to adopt such rules regulating the use and enjoyment of the same from time to time as shall be in the best interest of the Members who benefit from the use thereof.

(b) The right of the Board to suspend the right to use the Recreation and Trail Easements by an Owner (i) for any period during which any assessment against such Owner's Lot remains delinquent, and (ii) for a period not to exceed thirty (30) days after notice and hearing as may be provided for in the Bylaws for any infraction of the Association's Rules and Regulations and this Declaration.

PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY

The growth and success of The Preserve at Walnut Springs as a community in which people enjoy living, working, and playing requires good faith efforts to resolve disputes amicably, attention to and understanding of relationship within the community and with our neighbors, and protections of the rights of others who have an interest in the community.

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ARTICLE XII – DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

12.1 Consents for Association Litigation. Except as provided in this Section, the Association shall not commence a judicial or administrative proceeding without the approval of a majority of a quorum of the Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce the Governing Documents (including, without limitation, the foreclosure of liens); (b) the collection of assessments; or (c) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

12.2 Alternative Method for Resolving Disputes. The Declarant, the Association, its officers, directors, and committee members, if any, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Properties, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that those claims, grievances or disputes described in Section 12.3 shall be resolved using the procedures set forth in Section 12.4 in lieu of filing suit in any court.

12.3 Claims. Unless specifically exempted below, all claims arising out of or relating to the interpretation, application or enforcement of the Governing Documents, or the rights, obligations and duties of any Bound Party under the Governing Documents or relating to the design or construction of improvements on the Properties shall be subject to the provisions of Section 12.4.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be claims and shall not be subject to the provisions of Section 12.4:

(a) Any suit by the Association against a Bound Party to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Article III and Article IV;

(b) Any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents, if the amount in controversy exceeds five thousand dollars ($5,000);

(c) Any suit in which any indispensable party is not a Bound Party;

(d) Any suit as to which the applicable statute of limitations would expire within one-hundred twenty (120) days of the Request for Resolution pursuant to Section 12.4, unless the party or parties against whom the Claim is made agree to toll the statute of limitations for such periods as may be reasonably necessary to comply with this Article; and

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 12.4

12.4 Mandatory Procedures.

(a) **Request for Resolution**. Any Bound Party having a claim ("Claimant" against any other Bound Party ("Respondent") (collectively, the "Parties") shall notify each Respondent in writing (the "Request for Resolution"), stating plainly and concisely:

1. The nature of the claim, including the Persons involved and Respondent;

2. The legal basis of the claim (i.e., the specific authority out of which the claim arises);

3. Claimant's proposed remedy; and

4. That Claimant will meet with Respondent to discuss in good faith ways to resolve the claim; and

5. That Respondent must respond to the Request for Resolution within thirty (30) days of its receipt or it will be deemed to have been rejected.

(b) **Negotiation and Mediation**.

1. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the claim by good faith negotiation. If requested in writing, accompanied by a copy of the Request for Resolution, the Board may appoint a representative to assist the Parties in negotiation.

2. If the Respondent rejects the Request for Resolution, or Parties do not resolve the Claim within ninety (90) days of the date of acceptance of the Request for Resolution (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have thirty (30) additional days to submit the claim to mediation under the auspice of an independent mediation agency providing dispute resolution services in the Texas Hill Country.

3. If Claimant does not submit the claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

4. Any settlement of the claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the claim within thirty (30) days after submission of the matter to the mediation, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings

("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

5. Within five (5) days of the Termination of Mediation, the Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent, and the Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Request for Resolution shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer. In this event, the Mediator shall issue a final written binding decision within ten (10) days of the last offer. This decision shall bind the parties and may be reduced to judgment. The judgment may be enforced by a court of law after the procedures described in Section 12.6 have been exhausted.

12.5 Allocation of Costs of Resolving Claims.

(a) Subject to Section 12.5(b), each Party shall bear its own costs, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator(s) ("Post Mediation Costs").

(b) Any award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add Claimant's Post Mediation Costs to the award, such costs to be borne equally by all Respondents. Any award which is equal to or less favorable to Claimant than any Respondent's Settlement Offer shall award to such Respondent its Post Mediation Costs.

12.6 Enforcement of Resolution. After resolution of any claim, if any Party fails to abide by the terms of any agreement or award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or award without the need to again comply with the procedures set forth in Section 12.4. In such event, the Party taking action to enforce the agreement or award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) at all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

12.7 Board Authorization. The Board may perform any act reasonably necessary to institute, defend, settle, or intervene on behalf of the Association in binding arbitration, non-binding arbitration, mediation, litigation, or administrative proceedings in matters pertaining to (a) enforcement of the governing documents, (b) damage to the Area of Common Responsibility, (c) damage to the Lots which arises out of, or is integrally related to, damage to the Area of Common Responsibility, or (d) any other civil claim or action.

ARTICLE XIII – AMENDMENT AND DURATION OF DECLARATION

13.1 By Declarant. In addition to specific amendment rights granted elsewhere in this Declaration, until conveyance of the first Lot to an Owner unaffiliated with Declarant, Declarant may unilaterally amend or repeal this Declaration for any purpose. Thereafter, the Declarant may unilaterally amend this Declaration if such amendment is necessary to (i) bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination;

(ii) enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) enable any institutional or Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make purchase, insure or guarantee mortgage loans on the Lots; or (iv) to satisfy the requirements of any local, state or federal governmental agency. However, any such amendment shall not adversely affect the title to any Lot unless the Owner thereof shall consent in writing.

13.2 By Members. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of at least sixty-five percent (65%) of the Members.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

13.3 Validity and Effective Date. No amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of the Declarant.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon recording in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within thirty (30) days of its recordation, or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

13.4 Duration of Declaration. This Declaration shall continue to remain in full force and effect at all times against the Properties and the Owners, subject to the right of amendment as set forth herein, until December 31, 2023. Thereafter, this Declaration shall be automatically renewed and extended for additional successive twenty (20) year periods unless all of the Owners of the Lots otherwise unanimously agree in writing pursuant to a written instrument of termination filed of record in the Public Records.

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IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration the date and year first written above.

THE WALNUT SPRINGS PRESERVE
LIMITED PARTNERSHIP,

By: WALNUT SPRINGS INC.,
General Partner

By: G.T. Halpin
Name: Gerald T. Halpin
Title: President

STATE OF VIRGINIA)
ss.)
COUNTY OF FAIRFAX)

On April 13, 2006, before me, Donna L. Young Notary Public, personally appeared G.T. Halpin personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he or she executed the same in his or her authorized capacity, and that by his or her signature on the instrument, the person or entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Donna L. Young
Notary Public
My commission expires: 5-31-09

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EXHIBIT A

Single Family Residential Lots 1 through 53, 55B and 66-79, inclusive, Multipurpose Lots 54 and 55A, Common Road Lots 58 through 60 and 80, inclusive, and Open Space Lots 61 through 65, inclusive, all of THE PRESERVE AT WALNUT SPRINGS, an addition in Blanco County, Texas, according to the map or plat thereof recorded in **Volume 2, Pages 23-33** of the Plat Records of Blanco County, Texas.

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