

**AMENDED AND RESTATED MOUNT SHARP AIRPARK  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

STATE OF TEXAS                   §  
  §    KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF HAYS               §

WHEREAS, the Mount Sharp Airpark Declaration Of Covenants, Conditions And Restrictions (the "Original Declaration") was recorded in Document No. 25020582 of the Official Public Records of Hays County, Texas;

WHEREAS, there were errors in the Original Declaration and pursuant to Section 9.02 (a) of the Declaration, Mount Sharp Airpark LLC as the Declarant, has the right to amend the Original Declaration;

NOW, THEREFORE, Declarant hereby amends and restates the Original Declaration in its entirety as The Amended And Restated Mount Sharp Airpark Declaration Of Covenants, Conditions And Restrictions (the "Declaration") as set forth below:

WHEREAS, Mount Sharp Airpark, LLC, a Texas limited liability company (the "Declarant"), is the owner of certain real property located in Hays County, Texas ("Property"), which Declarant proposes to develop and subdivide for residential purposes; and

WHEREAS, Declarant desires to convey the Property subject to certain protective covenants, conditions, restrictions, liens, and charges set forth below; and

WHEREAS, Declarant desires to create and carry out a uniform plan for the improvement, development and sale of the Property for the benefit of the present and future owners of the Property.

NOW, THEREFORE, it is declared (i) that all of the Property shall be held, sold, conveyed, and occupied subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of (a) creating and keeping the Property as a desirable, attractive, beneficial, valuable, and high quality community; (b) protecting the Owners and the Property against reasonably avoidable hazards and threats to health and safety; and (c) preventing unnecessary interference with or alteration of the natural beauty, value and desirability of the Property, and which shall run with, the Property and shall be binding on all parties having any right, title, or interest in or to the Property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof; an (ii) that each contract or deed which may hereafter be executed with regard to the Property or any portion thereof shall conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions, and restrictions regardless of whether or not the same are set out or referred to in said contract or deed.

**ARTICLE I  
DEFINITIONS**

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

1.01 Architectural Committee. "Architectural Committee" shall mean the committee created pursuant to this Declaration to review and approve plans for the construction of Improvements upon the Property.

1.02 Architectural Committee Rules. "Architectural Committee Rules" shall mean the rules and regulations adopted by the Architectural Committee, as the same may be amended from time to time.

1.03 Assessment. "Assessment" or "Assessments" shall mean such assessments as may be levied by the Association under the terms and provisions of this Declaration.

1.04 Association. "Association" shall mean Mount Sharp Airpark Owners Association, Inc., a Texas non-profit corporation.

1.05 Board. "Board" shall mean the Board of Directors of the Association.

1.06 Bylaws. "Bylaws" shall mean the Bylaws of the Association as adopted by the Board, and as from time to time amended.

1.07 Common Area. "Common Area" shall mean all real property, including the improvements thereto, owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of conveyance by Declarant of the first Lot is described on Exhibit "B," attached to and incorporated into this document by reference.

1.08 Declarant. "Declarant" shall mean Mount Sharp Airpark, LLC; provided that any assignment of the rights of Mount Sharp Airpark, LLC as Declarant must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder.

1.09 Declaration. "Declaration" shall mean this instrument, and as it may be amended from time to time.

1.10 Improvement. "Improvement" shall mean every structure and all appurtenances thereto of every type and kind, including but not limited to buildings, Outbuildings, storage sheds, barns, patios, tennis courts, swimming pools, garages, storage buildings, fences, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment, and poles, pumps, wholes, tanks, reservoirs, pipes, lines, meters, antennas, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

1.11 Lot. "Lot" or "Lots" shall mean any parcel or parcels of land within the Property shown as a subdivided lot on a recorded plat of a Property (the "Plat"), together with all Improvements located thereon.

1.12 Member. "Member" or "Members" shall mean any person, persons, entity, or entities holding membership rights in the Association.

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

1.14 Mortgagee. "Mortgagee" or "Mortgagees" shall mean the holder or holders of any Mortgage or Mortgages.

1.15 Owner. "Owner" or "Owners" shall mean a person or persons, entity or entities, including Declarant, holding a fee simple interest in any portion of the Property, but shall not include a Mortgagee.

1.16 Person. "Person" or "Persons" shall mean any individual, individuals, entity, or entities having the legal right to hold title to real property.

1.17 Plans and Specifications. "Plans and Specifications" shall mean any and all documents designed to guide or control the construction or erection of any Improvement, including but not limited to those indicating location, size, shape, configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, elevation drawings, floor plans, specifications on all building products and construction techniques, sample of exterior colors, plans for utility services, and all other documentation or information relevant to such improvement.

1.18 Property. "Property" shall mean that real property which is subject to the terms of this Declaration, which is comprised of the property described on Exhibit "A," attached to and incorporated herein by reference, less any land withdrawn from the Property in accordance with Article II below.

1.19 Restrictions. "Restrictions" shall mean this Declaration, as the same may be amended from time to time, together with the Certificate of Formation (the "Certificate") and Bylaws of the Association from time to time in effect, as the same may be amended from time to time.

1.20 Supplemental Declaration. "Supplemental Declaration" shall mean and refer to any declaration of covenants, conditions and restrictions which may be recorded hereafter in order to withdraw land from the Property.

## **ARTICLE II DEVELOPMENT OF THE PROPERTY**

2.01 Development by Declarant. Declarant may divide or subdivide the Property into several areas, develop some of the Property, and, at Declarant's option, sell any portion of the Property free of these restrictions, in accordance with its master plan for the Property. It is contemplated that the Property will be developed pursuant to a master concept plan, which may,

from time to time, be amended or modified in which the development of, and restrictions upon, each portion of the Property will benefit every other portion, as well as the entire Property.

2.02 Addition of Land. Declarant may bring other land under the provisions of this Declaration without the consent of the Association, any Owner or any other person, and upon the filing of a notice of addition of land as described below, this Declaration and the covenants, conditions, restrictions, and obligations set forth herein shall apply to the added lands, and the rights, privileges, duties, and liabilities of the persons subject to this Declaration shall be the same with respect to the added land as with respect to the lands originally covered by this Declaration. Declarant shall be required only to record in the Official Public Records of Hays County, Texas, a notice of addition of land containing the following provisions:

- (A) A reference to this Declaration, which reference shall state the book and page numbers or Document Number of the Official Public Records of Hays County, Texas wherein this Declaration is recorded;
- (B) A statement that all of the provisions of this Declaration shall apply to the land being added; and
- (C) A legal description of land being added.

2.03 Withdrawal of Land. Declarant may, at any time and from time to time, reduce or withdraw lands from the Property, and upon such withdrawal, this Declaration and the covenants, conditions, restrictions, and obligations set forth herein shall no longer apply to those lands withdrawn. In order to withdraw lands from the Property, Declarant shall be required only to record in the Official Public Records of Hays County, Texas, a notice of withdrawal of land containing the following provisions:

- (A) A reference to this Declaration, which reference shall state the book and page numbers or Document Number of the Official Public Records of Hays County wherein this Declaration is recorded;
- (B) A statement that the provisions of this Declaration shall no longer apply to the withdrawn land; and
- (C) A legal description of the withdrawn land.

### **ARTICLE III GENERAL RESTRICTIONS**

All of the Lots shall be owned, held, encumbered, leased, used, occupied, and enjoyed for residential purposes only, and are subject to the following limitations and restrictions:

3.01 Antennae. No exterior radio or television antenna, or serial or satellite dish receiver (except such satellite dish not exceeding twenty-four inches in diameter), or other devices designed to receive telecommunication signals, including, but not limited to, radio, television, or microwave signals which are intended for cable television, network television reception, or other

entertainment purposes shall be erected or maintained, without the prior written approval of the Board. No electronic equipment may be permitted in or on any Lot which interferes with the television, radio, telephone or internet reception of another Owner.

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

3.03 Subdividing. No Lot shall be further divided or subdivided to create a new Lot; provided, however, that when Declarant is the Owner, Declarant may further divide and subdivide any Lot, all without the approval of the Board.

3.04 Signs and Lighting. No sign of any kind shall be displayed to the public view on any Lot or the Property without the prior written approval of the Board except for signs which are part of Declarant's overall marketing plan for the Property. The Board may permit signs of any type advertising a Lot for sale or it may set standards for the same. Only high quality, exterior lighting shall be used to illuminate a Lot and/or the structures thereon. Such lighting shall only be installed and maintained as approved by the Board. Mount Sharp Airpark follows the then current Dripping Springs Ordinance (Dark Sky Association) as amended or any successor ordinance (<http://www.cityofdrippingsprings.com/page/city.generallighting>). All outside lighting shall be arranged, directed and/or shielded so as to prevent any significant light from shining onto adjacent Common Area and/or other Lots. Owners may also install temporary holiday lighting and decorations provided such are not installed more than 20 days before, and are removed and stored away within 10 days after, the applicable holiday. In order to afford a safer environment in the Property, the Board shall require each Owner to commit to maintaining a minimum amount of exterior lighting on each Lot. The Board shall also encourage Owners to maintain some interior lighting when they are not present on their Lots in order to give the appearance that buildings are occupied.

3.05 Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any Lot or the Property and no odors shall be permitted to arise therefrom so as to render a Lot or the Property or any portion of it unsanitary, unsightly, offensive, or detrimental to any other property or to its occupants. Refuse, garbage, and trash shall be kept at all times in covered containers and such containers shall be kept within enclosed structures or appropriately screened from view. Neither a Lot, the Property nor any part thereof shall be used or maintained as a dumping ground for rubbish. No incinerators or other equipment for the storage or disposal of such material shall be permitted. No junk, repair, or wrecking yard shall be located on a Lot or the Property. Material of any kind stored on any Lot shall be arranged in an orderly manner in the rear of the dwelling house and shall be properly covered.

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

3.07 Commercial Use. No commercial use shall be permitted on a Lot or within the Property. The Board may make exceptions to this restriction for commercial uses that do not result in any significant additional use of the Common Area (including the improvements therein), and will not unreasonably interfere with any other Owner's use or enjoyment of their Lot or the Property.

3.08 Children will be the direct responsibility of the Owner whose family, invitees or guests they are. Such Owner shall be responsible for full supervision of children while within the Property and for compliance by them with all rules and restrictions described in this Declaration.

3.09 Hazardous Activities. No hazardous, illegal, noxious, or offensive activities or materials shall be permitted on any Lot or within the Property, nor shall anything be done or placed within a Lot or the Property which is or may become a nuisance. Without limiting the generality of the foregoing, no fireworks shall be discharged upon a Lot or the Property, no open fires shall be lighted or permitted except within safe and well-designed interior or exterior fireplaces, or in contained barbecue units while attended and in use for cooking purposes.

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

3.11 Septic Systems and Water Wells. Installation of septic tank soil-absorption sewerage disposal system shall be in accordance with the minimum recommendations by the Division of Sanitary Engineering, Texas State Department of Health, and inspected by a duly authorized agent of Hays County Health Department. Water wells shall be permitted by the Hays County Health Department or other appropriate governmental authority.

3.12 Roadways. No part of any Lot may be used for a roadway leading to other privately owned property outside the Property.

3.13 Mining, Drilling, Pipelines. No portion of the Property shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth. This restriction shall not prohibit an Owner from participating in pooling agreements or the leasing of the Lot for the development of oil, gas or minerals which shall be extracted from the Lot from adjoining lands not within the Property. The existing petroleum or gas pipelines crossing the Property as described in instrument recorded in Document Number 200005704, Official Public Records of Hays County, Texas, are allowed. No additional petroleum or gas pipeline easements shall be granted after the date hereof. No new pipeline structures or pumping stations or public cellular towers or antennas allowed.

3.14 Unsightly Articles; Vehicles. No article deemed to be unsightly by the Board shall be permitted to remain on any Lot so as to be visible from adjoining property or public or private thoroughfares. Without limiting the generality of the above, trailers, graders, trucks, other than pickups, boats, tractors, campers, wagons, buses, motorcycles, motor scooters, and garden maintenance equipment, shall be kept at all times, except when in actual use, in enclosed structures or screened from view and no repair or maintenance work shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in enclosed garages or other structures. No automobiles or other vehicles may be parked overnight on any roadway within the Property. Motorcycles, ATV's, golf carts and similar vehicles may be used only on the designated roads within the Property, and not otherwise on any Lot or within the Common Area, or in any unsafe, noisy or offensive manner. Service areas, storage areas, compost piles and facilities for hanging, drying, or airing clothing or household fabrics shall be appropriately screened from public view and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials, scrap, or refuse of trash shall be kept, stored or allowed to accumulate on any portion of the Property except within enclosed structures or appropriately screened from view.

3.15 Mobile Homes, Travel Trailers and Recreational Vehicles. No mobile/manufactured homes shall be parked or placed on any Lot at any time. Boat, motor home and/or travel trailer are permitted, provided they are housed and stored in a garage built for such purposes prior to such boat, motor home or trailer being brought on any Lot. The garage must be built to either the side or the rear of the main residence. The garage in which such boats, motor homes and trailers are housed and stored must be similar in construction to the main residence.

3.16 Animals - No livestock, pigs, hogs, emus or ostriches shall be allowed on the Property or any Lot. Owners may keep no more than two (2) dogs nor more than two (2) cats on their Lot, and all such dogs/cats shall be kept from creating a nuisance or disturbance to other Owners. Pet owners shall be responsible for picking up and cleaning up after their pets.

3.17 Construction Activities. Nothing in this Declaration shall be construed so as to unreasonably interfere with, or prevent, normal construction activities during the construction of Improvements by an Owner (including Declarant) upon any Lot within the Property. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. In the event of any dispute regarding such matters, a temporary waiver of the applicable provision may be granted by the Architectural Committee, provided that such waiver shall be only for the reasonable period of such construction.

3.18 Sale of Alcohol or Pornographic Materials. The sale of beer, liquor, or other intoxicants shall never be permitted upon any Lot nor shall the sale or exhibiting of pornographic material be permitted on any Lot or the Property.

3.19 Rentals. Owners may not lease out their home, Lot, or any part thereof or improvement thereon, except their entire Lot and home, provided the their tenants agree in writing to abide by the provisions of the Declaration and the rules contained herein, and Owner remains

responsible for the tenant's compliance with the provisions of this Declaration and the rules contained herein.

3.20 Drainage Structures. Drainage structures under a private driveway shall have a net drainage opening area sufficient in size to permit the free flow of water without backwater. Such structures, where needed, are to be installed at the expense of the Owner of the Lot. Natural drainage shall not be disturbed so as to cause the backing up of water or accumulation of water on adjoining Lots, any roadway or easements.

3.21 No Warranty of Enforceability. While Declarant has no reason to believe that any of the Restrictions or other terms and provisions contained in this Article II or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such Restrictions, terms or provisions. Any Owner acquiring a Lot in reliance on one or more of such Restrictions, terms or provisions shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

#### **ARTICLE IV USE RESTRICTIONS**

4.01 General. The Property shall be improved and used solely for single family residential use and no business or commercial structure shall be constructed or placed on a Lot.

4.02 Common Area.

(a) The Common Area shall consist of: (i) the Common Area designated on the Plat; (ii) the roads (and rights of way for such) designated on the Plat; (iii) all other easements for trails, utilities and other purposes granted to or designated for the Association on the Plat, in this Declaration, or otherwise; and (iv) all improvements, facilities and buildings, if any, constructed thereon for the benefit of the Members. The Common Area shall be used for the common enjoyment of the Owners for such purposes as parks, ponds, trails, recreational areas, roads, parking, landscaping, utilities, and any other uses expressly permitted by the Association. The Association may designate certain areas and/or facilities within the Common Area for specific purposes subject to such rules and regulations as the Board may adopt. The Common Area shall not be obstructed nor used for any purpose other than the purposes set forth herein or otherwise approved by the Association. The Association assumes all of Declarant's responsibility of any kind with respect to the Common Area, and shall indemnify and hold harmless Declarant with respect thereto.

(b) Common Area Use - Member Easements. Subject to certain provisions hereinafter described, each Owner is hereby granted and shall have a permanent and perpetual non-exclusive easement for the use and enjoyment of all the Common Area in common with all other Members. Such easement shall be subject to the provisions of this Declaration, including but not limited to the following covenants and conditions:

- i. Such easements are granted on a non-exclusive basis in favor of all Owners and for the benefit of such Owners, their families residing with them, and their permitted tenants, agents, and guests.



- ii. The Association has the right to levy and collect assessments against each Lot for the purpose of maintaining the Common Area in compliance with the intent and provisions of these Restrictions.
- iii. The Association may suspend the right of an Owner, and its permitted tenants, agents, and invited guests, from using the Common Area (except for legal access) for any period during which an applicable assessment remains unpaid, and for an infraction of lawfully adopted and published rules and regulations.
- iv. The Association may charge reasonable admission fees, use fees, and/or other fees for the use of Common Area amenities or improvements.
- v. The Association may adopt and enforce rules and regulations governing the use of the Common Area.
- vi. The Association may, by a 2/3rds affirmative vote of the membership, dedicate portions of the Common Area to a public agency under such terms as the Association deems appropriate, and/or contract with public or private entities for lighting, roads, recreational or other services, security, communications and other similar purposes deemed appropriate by the Association.
- vii. For so long as Declarant is the Owner of any Lot, Declarant may permit persons other than Members, and their tenants, agents, and invited guests, to use the Common Area under such terms as Declarant may from time to time desire, so long as such use does not unreasonably interfere with or restrict the rights granted herein for the benefit of the Owners.
- viii. Declarant, for so long as Declarant is the Owner of any Lot, and the Association at any time may grant non-exclusive perpetual easements over, under and through the Common Area.
- ix. Common Area shall not be used by Owners for storage, parking or any other purposes not expressly permitted by the Association. Common Area designated for Owner or guest parking by the Association, if any, may be used only for the purpose specified by the Association.
- x. No Owner may alter in any way portions of the Common Area, including, but not limited to, landscaping, drainage and natural features, without obtaining the prior written consent of the Board.
- xi. No driveway or vehicular access shall be permitted to any Lots across Common Area except as expressly permitted by the Association.

**ARTICLE V**  
**MOUNT SHARP AIRPARK OWNERS ASSOCIATION, INC.**

5.01 Organization. Declarant shall, at such time as Declarant deems appropriate, cause the formation and incorporation of the Association. The Association shall be a nonprofit corporation created for the purposes, charged with the duties, and vested with the powers prescribed by law or set forth in its Certificate and Bylaws and in this Declaration. Neither the Certificate nor the Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

5.02 Membership. Any Person, upon becoming an Owner, shall automatically become a Member of the Association. Membership shall be appurtenant to and shall run with the property interest which qualifies the Owner thereof for membership, and membership may not be severed from, or in any way transferred, pledged, mortgaged, or alienated, except together with the title to the said property interest.

5.03 Voting Rights. The right to cast votes, and the number of votes which may be cast, for election of members to the Board of Directors of the Association, and on all other matters to be voted on by the Members, shall be calculated as provided below. Matters to be determined by the Association shall be determined by majority vote of the Members, unless otherwise indicated. Such majority vote may be obtained either: (i) by a simple majority (greater than 50%) vote of Members present at a duly constituted meeting of the Association (i.e., one for which proper notice has been given and at which Owners of greater than 50% of the total Lots are present); or (ii) by majority vote of all Members obtained by the Board in writing but without a meeting. Owners entitled to votes pursuant to (a) below are hereinafter sometimes referred to as "Class A Members." Declarant, which is entitled to vote pursuant to (b) below, is hereinafter sometimes referred to as the "Class B Member."

(a) The Owner of each Lot within the Property shall have one vote; when more than one person owns of any Lot, all such persons shall be Members, but a single vote for such Lot shall be exercised as they among themselves determine. In no event shall more than one vote be cast for any Lot.

(b) In addition to the votes to which it is entitled by reason of subparagraph (a) of this section for every one (1) vote to which Declarant is entitled due to its ownership of Lots, Declarant shall have an additional three (3) votes for each Lot owned by Declarant until the earlier of (i) December 31, 2035 or (ii) the number of total votes in Class A equals the number of total votes in Class B. Thereafter, Declarant shall have only the votes, if any, to which it is entitled under subparagraph (a) of this section.

5.04 Powers and Authority of the Association. The Association shall have the powers of a Texas nonprofit corporation, subject only to such limitations upon the exercise of such power as are expressly set forth in this Declaration. It shall further have the power to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration. Without in any way limiting the

generality of the two preceding sentences, the Association and the Board, acting on behalf of the Association, shall have the power and authority at all times as follows:

(a) Mount Sharp Airpark Ranch Bylaws. To make, establish, and promulgate, and in its discretion to amend or repeal and re-enact, such Mount Sharp Airpark Bylaws, not in conflict with this Declaration, as it deems proper covering any and all aspects of its functions.

(b) Insurance. To obtain and maintain in effect policies of insurance which, in the opinion of the Board, are reasonably necessary or appropriate to carry out the Association functions.

(c) Records. To keep books and records of the Association's affairs.

(d) Assessments. To levy assessments as provided in Article VII below. An assessment is defined as that sum which must be levied in the manner and against the property set forth in Article VII in order to raise the total amount for which the levy in question is being made.

(e) Right of Entry and Enforcement. To enter at any time in an emergency (or in the case of a non-emergency, after twenty-four (24) hours written notice), without being liable to any Owner, upon any Lot for the purpose of enforcing the Mount Sharp Airpark Restrictions or for the purpose of maintaining or repairing any area, Improvement or other facility to conform to the Mount Sharp Airpark Restrictions, and the expense incurred by the Association in connection with the entry upon any Lot and the maintenance and repair work conducted thereon shall be a personal obligation of the Owner of the Lot entered upon, shall be a lien upon the Lot entered upon and Improvements thereon, and shall be enforced in the same manner and to the same extent as provided in Article VII hereof for regular and special assessments. The Association shall have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of the Mount Sharp Airpark Restrictions. The Association is also authorized to settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the Mount Sharp Airpark Restrictions.

(f) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper in the operation of the Association.

(g) Conveyances. To grant and convey to any person or entity the real property and/or other interest therein including fee title, leasehold estates, easements, rights-of-way, or mortgages out of, in, on, over, or under any Association property for the purpose of constructing, erecting, operating, or maintaining the following:

(1) Roads, streets, walks, driveways, trails and paths;

(2) Lines, cables, wires, conduits, pipelines or other vices for utility purposes;

(3) Sewers, water systems, storm water drainage systems, sprinkler systems, and pipelines; and/or

(4) Any similar public, quasi-public or private improvements or facilities.

Nothing above, however, shall be construed to permit use or occupancy of any Improvement or other facility in a way which would violate applicable use and occupancy restrictions imposed by other provisions of this Declaration.

(h) Manager. To retain and pay for the services of a person or firm (the Manager") to manage and operate the Association, including its property, to the extent deemed advisable by the Board. Additional personnel may be employed directly by the Association or may be furnished by the Manager. To the extent permitted by law, the Association and the Board may delegate any other duties, powers and functions to the Manager. The members of the Association hereby release the Association and the members of the Board from liability for any omission or improper exercise by the Manager of any such duty, power, or function so delegated.

(i) Association of Property Services. To maintain and repair easements, roads, roadways, rights-of-way as appropriate.

(j) Other Services and Properties. To obtain and pay for any other property and services, and to pay for other taxes or assessments which the Association or the Board is required to secure or to pay for pursuant to applicable law, the terms of this Declaration, or the Articles or Bylaws of the Association.

5.05 Maintenance. The Association shall (i) maintain all streets which have been completed but not accepted by the appropriate governmental entity for maintenance (including the shared access road), (ii) maintain all Common Area dedicated to the Association, and (iii) maintain the landscaping and entry sign located at the entrance of the Property, and all median strips which have not been accepted by any governmental entity for maintenance.

5.06 Indemnification. The Association shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he is or was a director, officer, committee member, employee, servant or agent of the Association against expenses, including attorney's fees, reasonably incurred by him in connection with such action, suit or proceeding if it is found and determined by the Board or a Court that he (1) acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association, or (2) with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of Nolo Contendere, of its equivalent, shall not of itself create a presumption that the person did not act in good faith or in a manner which he reasonably believed to be in, or not opposed to, the best interests of the Association, or, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. The Board may purchase and maintain insurance on behalf of any person who is or was a director, officer, committee member, employee, servant, or agent of the Association, against any liability asserted

against him or incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability hereunder or otherwise.

## **ARTICLE VI** **ARCHITECTURAL CONTROL**

The intent of the following architectural rules is to ensure that homes, accessory buildings, landscaping and other improvements constructed within the Property are of higher-than-average quality, appearance and styling, and are compatible with the theme and nature of the Property. Accordingly, all improvements to be constructed or placed within the Property shall comply with the following requirements and such other rules and requirements as the Association and/or the Board may adopt from time to time: All improvements shall comply with Hays County, Texas building code requirements.

6.01 Membership of Architectural Committee. The members of the Board of Directors of the Association shall be the members of the Architectural Committee.

6.02 Action by Architectural Committee. Items presented to the Architectural Committee shall be decided by a majority vote of the Members.

6.03 Term. Each member of the Architectural Committee shall hold office until such time as he or she no longer is a member of the Board of Directors of the Association.

### 6.04 Review Of Proposed Construction - Architectural Control.

a. Architectural Control Review And Approval. The Board shall have the exclusive right to govern, control and enforce the architectural review and approval of the building requirements for all construction, landscaping and other improvements on or to all Lots. The Board shall further be responsible for the approval/denial of any variance to the construction, design, elevation, landscaping or other general building requirements for each Lot, as set forth herein.

b. Purpose Of Architectural Control. The Board's purpose, as it relates to architectural control, shall be to implement and enforce the characteristics of construction required herein, and to prohibit any construction or improvement on a Lot in violation of such requirements, and to protect and maintain the theme intended for the Property. In its capacity as the Property's exclusive architectural control committee, the Board's approval shall be required to commence any construction. All architectural and construction decisions made by the Board shall be made in the Board's sole discretion (using such resources as the Board deems appropriate), and all such decisions shall be binding on the Property and all Lots thereof.

c. Submission Of Proposed Plans. Whenever an Owner of a Lot wishes to construct a primary residential dwelling, accessory building, landscaping, or any other improvement, the Owner shall submit to the Board three (3) full sets of building and site plans for such proposed construction or improvement. Building plans shall show all exterior elevations, dimensions and locations of the proposed building(s)

and shall designate all exterior materials and colors to be used so that the Board has sufficient information to evaluate if the proposal meets the requirements set forth herein. For landscaping, fencing, and other improvements besides buildings, the Owner shall submit (in addition to three (3) full sets of plans) appropriate material and color samples and specifications for the planned improvements for the Board's review and approval.

d. Plan Review And Approval. Upon receipt of plans for buildings or other improvements proposed by an Owner, the Board shall meet for the purpose of reviewing the plans not later than thirty (30) calendar days from the date of the Board's receipt of the plans. At said meeting, the Board shall discuss the plans and samples submitted and vote on approval of the proposed plans. Approval of such plans shall require at least a two-thirds affirmative vote by the members of the Board, and such approval or denial shall be in the sole discretion of the Board. Within 10 days after the meeting, the Board shall issue a written statement outlining the result of said vote and whether the Board approved or denied the proposed plans and samples. The Board may require such detail in plans and specifications as it deems appropriate, and may require submission of additional plans, specifications, samples, or other information prior to approving or disapproving the plans submitted. If plans are approved, the Board may specify certain conditions that must be satisfied by the Owner in order to proceed with construction and a specific time frame within which the project must be completed. If approval is denied, the Board shall provide a written summary of the reasons for such denial. No construction, landscaping or other improvement shall commence until the plans therefore have been approved by the Board in writing, and any conditions imposed have been satisfied and/or agreed to by the Owner.

e. Variances. The Board, in architectural control of the Property, may grant a variance from these Restrictions when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations require. An Owner desiring a variance must request such in writing stating the specific factors justifying the variance. Approval or denial of a variance shall be in the sole discretion of the Board. A variance, to be approved, must be evidenced in writing signed by at least 2/3rds of the members of the Board. No variance shall effect in any way the Owner's obligation to comply with all governmental laws, ordinances, codes and regulations

f. Additional Rules & Compliance With Laws. From time to time, the Board may issue and modify rules and/or guidelines (in addition to those provided herein) for the submission and approval of plans for buildings and other improvements. It shall be the Owner's responsibility (and not the Board's or HOA's) to see that all plans and work, including any changes or alterations, comply with applicable governmental laws, statutes, ordinances, building codes, rules, regulations, orders and decrees.

#### 6.05 Construction Requirements

a. New Construction / Time For Completion. Any buildings erected on a Lot

shall be of new construction and high quality materials. Once construction of a structure is commenced on a Lot, construction of that structure shall be completed within a reasonable time specified by the Board.

b. Temporary Structures. No trailer homes, mobile homes or modular homes shall be placed or used within the Property as temporary or permanent residences, or for any other purpose, during construction or at any other time; provided; however, that a recreational vehicle may be used as a temporary residence and/or office, and a truck and/or trailer may be used for storage of materials and equipment, while construction of a building is under way and *only* until the exterior of such building is completed.

c. Compatibility Of Improvements. All buildings, fencing and any other improvements constructed on a Lot shall be appropriate in character, design, color and architecture to be compatible with the Property and surrounding area as determined by the Board. No unusual design, styles or construction methods shall be allowed (such as geodesic domes, A-frames, underground homes, or other structures of unusual construction quality or design).

d. Colors Of Improvements. All buildings and improvements will be painted, stained, sided and roofed in primarily earth tone colors, compatible with the surrounding area and the Property as approved by the Board.

e. Building Setbacks. No building or improvement, other than fencing and/or landscaping approved by the Board, shall be built in violation of Hays County, Texas set back requirements.

f. Number Of Buildings Per Lot And Minimum Square Footages

- Lots 1-4 and Lots 16-21 shall allow only (1) residential / hangar building, and the residential area shall have a minimum of 750 square feet of air conditioned living space. No other buildings shall be erected, altered, placed or permitted on such Lots.
- Lots 10-15 shall allow only (1) residential building having a minimum of 1,800 square feet of air conditioned living space, and one (1) detached building for such uses as a garage, barn, studio, workshop, recreation room, or any combination thereof. No other building shall be erected, altered, placed or permitted to remain on such Lots. These Lots must have a hangar on the runway.
- Lots 5-9 shall allow only (1) residential building, and the residential area shall have a minimum of 2,800 square feet of air conditioned living space and a maximum of two (2) additional accessory buildings for such uses as a garage, barn, hangar, studio, guest house, workshop, living quarters for domestic employees, recreation room, or any combination thereof.
- Lots 22-24 shall allow one (1) residential building having a minimum of

3,800 square feet of air conditioned living space, together with a maximum of two (2) additional accessory buildings for such uses as a garage, barn, hangar, studio, guest house, workshop, living quarters for domestic employees, recreation room, or any combination thereof. No more than three (3) buildings per Lot shall be permitted on these Lots without a variance granted by the Board.

- Lot 25 shall allow (2) residential buildings *each* having a minimum of \_\_\_\_\_ square feet of air conditioned living space, together with a maximum of two (2) additional accessory buildings for such uses as a garage, barn, hangar, studio, guest house, workshop, living quarters for domestic employees, recreation room, or any combination thereof. No more than three (3) buildings per Lot shall be permitted without a variance granted by the Board.
- Notwithstanding anything contained in these Restrictions to the contrary, Lots 26 and 27 are exempted from of the Restrictions.

g. Primary Dwelling, Garages, Landscaping. Prior to, or concurrently with, the construction of a primary residence or any other accessory building(s), Owners shall construct an enclosed garage (either attached to the primary dwelling or as a separate accessory building), conforming with the Restrictions herein. Such primary garage shall be designed and constructed to include at least 600 square feet of useable floor space and to accommodate at least two large vehicles. In conjunction with constructing the primary dwelling and garage, Owners shall also install landscaping improvements as provided herein and approved by the Board.

h. Maximum Height. No primary residential dwelling shall exceed two stories above finished grade. The maximum height of any primary residential dwelling shall not exceed 35' above finished grade. The maximum height of any accessory building shall also not exceed 35' above finished grade, except for hangars, which height will be subject to approval by the Board. Generally, no basement (having its floor and walls primarily below finished grade) shall extend higher than twenty-four inches (24") above finished grade, however, the Board may permit "walk-out basements" (with one or more walls primarily above grade, and other walls below grade) as determined appropriate for the grade on specific Lots.

i. Accessory Buildings. Each accessory building, and the size, design and location thereof, must be approved by the Board prior to construction. All such buildings shall be of properly framed construction, and shall be finished only with materials approved by the Board. Each accessory building shall be constructed in a style that matches or is compatible with the primary residential dwelling on the Lot. Each accessory building shall have one or more architectural details that provide a higher-than- average appearance (such as, but not limited to, varying or multiple roof lines, covered porch or landing, a roof cupola). Architectural details shall be subject to approval by the Board.

j. Siding. Each primary residential dwelling and all additional accessory



buildings (including exposed basement walls) shall be sided as approved by the Board with one or more of the following materials: (a) properly painted, stained or treated exterior-quality wood siding; (b) properly stained, painted or treated wood; (c) masonry (natural or cultured stone or brick); and/or (d) high quality manufactured and/or composite siding. No primary residential dwelling or any accessory building (including exposed basement walls) shall be sided with materials of inferior or less-than-average quality and/or appearance, such as, but not limited to: plywood or any wood sheet panel siding; vinyl lap-style siding; metal siding (Excludes R Panel or Equivalent Material); pressed board; hard board siding; exposed unfinished cement or concrete block; or any other inferior siding.

k. Soffit, Fascia, Doors, Windows, Finishes. All soffit and fascia shall be considered a part of the siding and shall be installed using new quality material and in accord with the siding materials permitted above. Trim board, and window and door casings, windows, doors, and all other exterior elements and finishes, shall also be of new quality materials complimenting and consistent with the design approved by the Board.

l. Roofing. All major roof lines of any primary residential dwelling shall be pitched with at least a 4/12 pitch; provided however, the roof pitch of porches, dormers and other ancillary roof lines shall not be less than a 4/12 pitch unless otherwise approved by the Board. No roof of any other structure erected on a Lot shall be pitched less than a 2/12 pitch. No roof of any structure shall have a pitch that exceeds a 6/12 pitch. Permitted roofing materials shall not be in any unusual color for the area and are limited to: (i) tile or slate; (ii) high quality faux tile or slate, (iii) asphalt shingles (provided they are of architectural design with the "shake" look and shall be of a quality with at least a 40-year rating); (iv) high quality composite shakes; (v) real cedar shakes; (vi) metal roofing with high quality finish (No Galvanized Material) and in an architectural grade with concealed screws/fasteners; or (vii) other such higher-than-average quality roofing material approved by the Board.

m. Sheathing & Exterior Framing. All building construction shall use sheathing (except in types of construction where sheathing is not required) meeting at least the following minimum requirements: (i) all wall sheathing shall be at least 7/16" plywood, OSB or comparable sheathing product; (ii) all roof sheathing shall be at least 5/8" plywood, OSB or comparable sheathing product; and (iii) all subflooring shall be at least 3/4" plywood, OSB or comparable subflooring product. Additionally, all exterior stud walls shall be framed with studs on at least 16" centers. The purpose of these requirements is to ensure the quality of the exterior appearance of the buildings shall be long lasting and shall not sag or develop a lower quality appearance.

n. Landscaping. Concurrently with submitting plans to build the primary residence on a Lot (and any accessory building), and in any other instance where an Owner desires to install or modify landscaping improvements, the Owner shall submit plans for landscaping compatible with the Lot and other improvements for approval by the Board. After approval by the Board, the Owner shall then install the approved

landscaping not later than: (I) 120 days after completion of the building associated with such landscaping plans/improvements; or (2) 120 days after approval of such landscaping plans. Landscaping improvements shall comply with the following minimum requirements: at least 30% of each Lot (including areas covered by buildings) shall be improved and maintained with sprinklered septic sprays, paved driveway, walkways and other hardscape, cultivated planters, and/or similar landscape improvements. Landscapes shall also include at least 6 trees native to the area surrounding the Property, with initial trunk diameters of 3 inches or more, measured 4 feet above grade at planting. Areas not planned for and maintained with landscape improvements (as described above) shall be maintained with native grasses, plants, shrubs and/or trees as approved by the Board. No berms shall be created on any Lot without the approval of the Board. Berms shall not, without good reason therefor, as determined solely by the Board, exceed 2 feet in height from the surrounding natural landscape.

o. Fences. All fences shall be of a "see-through" style and be approved by the Board before being constructed. Unless otherwise specifically approved by the Board, fences must be constructed of wood, or high quality simulated wood, and shall be "buck and rail" or "post and rail" style. Stone or brick pilasters, with wood, simulated wood, or iron railing, may also be used if approved by the Board. Fences shall have a natural wood appearance; provided, however, that the Board may approve other finishes if they are compatible with the approved buildings on the Lot and otherwise comply with these Restrictions. Fences shall not exceed 6 feet in height. No chain-link, woven wire, or barbed wire fences are permitted, except that the Board may approve for good reason wire mesh applications on approved wood fences to restrict movement of children and/or animals. As much as is practical, fences shall not obstruct the view of other Owners. Temporary fences (to provide seasonal protection of trees or vegetation or keep construction areas safe) may consist of materials not otherwise permitted hereunder, only if, and subject to such conditions as are, approved by the Board.

p. Utility Lines. All electrical lines, telephone lines and other utility lines shall be run underground.

q. Solar Collectors. Solar collectors may be incorporated in the design of a primary residence and/or accessory building, but shall not be placed to cause any objectionable glare on neighboring Owners.

r. Propane & Other Tanks. All propane tanks, water tanks, or similar storage facilities shall either be constructed as an integral part of the primary residence or an accessory building, or shall be installed underground and out of view.

s. Septic Systems. Each Lot shall have its own septic system. It shall be each Owner's responsibility to install and maintain their own septic system at their expense and in compliance with these Restrictions and all applicable laws, ordinances, codes, regulations and other governmental requirements. The Owner

shall include plans for their septic system when submitting proposed plans for the primary residence and other structures to the Board for approval.

- t. Domestic Water. No well shall be constructed or maintained on a Lots 1-21; rain collection is the only approved water source. All collection tanks must be wrapped in wood or stone material. The roofs must be painted.

Inspection of Work – Noncompliance Correction. The Board (or its duly authorized representative) may at any reasonable time inspect any work for which approval of plans is required under these Restrictions. Upon completion of any work for which approval of plans is required under these Restrictions, the Owner shall give written notice of completion to the Board. If after receiving such notice (or at any other time) the Board finds that such work is not being carried out, or was not completed, in substantial compliance with these Restrictions and the approved plans, it shall notify the Applicant in writing of such noncompliance, specifying the particulars, and shall require the Applicant to remedy the same. The Applicant shall remedy or remove the noncompliance within a period of not more than thirty (30) days from the date notice from the Board is delivered, unless otherwise approved by the Board. If the Applicant does not comply with the Board ruling within such period, the Board, at its option, may remove the non-complying improvement, otherwise remedy the noncompliance, and/or pursue such other remedies as it deems appropriate. In that event, the Owner shall reimburse the HOA upon demand for all expenses and costs incurred by the HOA, including attorneys' fees and an administrative charge to be determined by the HOA. If such expenses and charges are not promptly paid by the Applicant to the HOA, the Board may levy and enforce a special assessment for reimbursement against such Owner and their Lot.

Other Construction Standards. In addition to compliance with these Restrictions, all construction and improvements shall comply with applicable laws, ordinances, codes and governmental requirements and regulations. All work shall be done and materials installed in accordance with normal or better construction standards. All construction areas, buildings and improvements shall be regularly and properly maintained in a neat, orderly, attractive and safe condition.

Variances. The Board, in architectural control of the Property, may grant a variance from these Restrictions when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations require. An Owner desiring a variance must request such in writing stating the specific factors justifying the variance. Approval or denial of a variance shall be in the sole discretion of the Board. A variance, to be approved, must be evidenced in writing signed by at least 2/3rds of the members of the Board. No variance shall effect in any way the Owner's obligation to comply with all governmental laws, ordinances, codes and regulations.

6.06 Nonliability of Architectural Committee Members. The Board, nor any member thereof, shall be liable to the Association or to any Owner or to any other person for any loss, damage or injury arising out of their being in any way connected with the performance of the Architectural Committee's or the Board's respective duties under this Declaration unless due to the willful misconduct or bad faith of the Architectural Committee or its member or the Board or its member, as the case may be. Neither the Architectural Committee, nor the members thereof, shall be liable to any Owner due to the construction of any Improvement within the Property.

## **ARTICLE VII FUNDS AND ASSESSMENTS**

### **7.01    Assessments.**

(a) Assessments established by the Board pursuant to the provisions of this Article VII shall be levied on a uniform basis against each Lot within the Property. The amount of the Assessment shall be determined by dividing the total amount determined by the Board to be necessary pursuant to Section 7.03 and/or 7.04 hereof by the total number of Lots within the Property at the time the Assessment is levied, as determined by reference to each plat of a portion of the Property which is of record at the time the Assessment is levied.

(b) Each unpaid assessment, together with interest and costs of collection, as provided below, shall be the personal obligation of the Owner of the Lot against which the Assessment fell due, and shall become a vendor's lien against each such Lot and all its Improvements. The Association may enforce payment of such Assessments in accordance with the provisions of this Article.

7.02    Maintenance Fund. The Board shall establish a maintenance fund into which shall be deposited all monies paid to the Association and from which disbursements shall be made in performing the functions of the Association under this Declaration. The funds of the Association must be used solely for purposes authorized by this Declaration, as it may from time to time be amended.

7.03    Regular Annual Assessments. Prior to the beginning of each fiscal year, the Board shall estimate the expenses to be incurred by the Association during such year in performing its functions under the Mount Sharp Airpark Restrictions, including but not limited to, the cost of all maintenance, the cost of providing street lighting, the cost of enforcing the Mount Sharp Airpark Restrictions, and a reasonable provision for contingencies and appropriate replacement reserves, less any expected income and any surplus from the prior year's fund. Assessments sufficient to pay such estimated net expenses shall then be levied as provided herein, and the level of Assessments set by the Board shall be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including non payment of any individual Assessment, the Association may at any time, and from time to time, levy further Assessments in the same manner as provided above. All such regular Assessments shall be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion. In no event shall the regular annual assessment per Lot for the year 2025 exceed the sum of \$ \_\_\_\_\_. Thereafter, at the Board's sole and absolute discretion, the maximum regular annual assessment permitted hereunder may be increased by no more than five percent (5%) per year. The maximum regular annual assessment may be increased by more than five per cent (5%) during a year only by affirmative vote of two-thirds (2/3) of each class of Members, voting in person or by proxy, at a meeting duly called for such purpose.

7.04    Special Assessments. In addition to the regular annual Assessments provided for above, the Board may levy special Assessments whenever in the Board's opinion such special

Assessments are necessary to enable the Board to carry out the mandatory functions of the Association under the Mount Sharp Airpark Restrictions. The amount of any special Assessments shall be at the reasonable discretion of the Board. In no event shall the total special assessment per Lot during the year 2026 exceed the sum of \$100.00. Thereafter, the maximum special assessment permitted hereunder may increase by no more than five percent (5%) per year.

7.05 Owner's Personal Obligation for Payment of Assessments. The regular and special Assessments provided for herein shall be the personal and individual debt of the Owner of the Lot covered by such Assessments. No Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any such Assessment, the Owner of the lot shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from the due date thereof, together with all costs and expenses of collection, including reasonable attorneys' fees.

7.06 Assessment Lien and Foreclosure. All sums assessed in the manner provided in this Article but unpaid, shall, together with interest as provided in Section 7.05, and the cost of collection, including reasonable attorneys' fees, thereupon become a continuing lien and charge on the Lot covered by such Assessment, which shall bind such Lot in the hands of the Owner, and such Owner's heirs, devisees, personal representatives, successors, or assigns. This lien shall be superior to all other liens and charges against the said Lot, except only for tax liens and all sums unpaid on a first mortgage lien or first deed of trust liens of record, securing in either instance sums borrowed for the acquisition or improvement of the Lot in question. The Association shall have the power to subordinate the aforesaid Assessment lien to any other lien. Such power shall be entirely discretionary with the Board and such subordination may be signed by an officer of the Association to evidence the aforesaid Assessment lien, the Association may prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien, and a description of the Lot. Such notice shall be signed by one of the officers of the Association and shall be recorded in the office of the County Clerk of Hays County, Texas. Such lien for payment of Assessments shall attach with the priority set forth above from the date that such payment become delinquent and may be enforced by the foreclosure of the defaulting Owner's Lot by the Association in like manner as a mortgage on real property subsequent to the recording of a notice of Assessment lien as provided above, or the Association may institute suite against the Owner personally obligated to pay the Assessment and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or not judicial, the Owner shall be required to pay the costs, expenses, and reasonable attorneys' fees incurred. The Association shall have the power to bid on the property at foreclosure, or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the Association shall report to said Mortgagee any unpaid Assessments remaining unpaid for longer than thirty (30) days after the same are due.

7.07 Effect On Declarant. Notwithstanding any provision that may be contained to the contrary in this Declaration, for so long as Declarant is the Owner of any Lot, Declarant shall have the option, in its sole discretion, to either: (i) pay assessments on the Lots owned by Declarant, or (ii) not pay assessments on the Lots owned by Declarant and instead fund any deficit in the Association operations. A "deficit" in the Association operations shall mean the amount by which actual Association operating expenditures (excluding reserves for future

expenditures) exceeds all Association receipts (including assessments and all other charges and incidental income) and any surplus carried forward from preceding years. Declarant may from time to time change the option Declarant uses to make payments to the Association. When all Lots within the Property are sold and conveyed to purchasers, Declarant shall have no further liability of any kind to the Association for the payment of assessments or deficits, except to the extent otherwise expressly agreed by Declarant.

## **ARTICLE VIII EASEMENTS**

8.01 Reserved Easements. All dedications, limitation, restrictions, and reservations shown on the Plat and all grants and dedications of easements, rights-of-way, restrictions, and related rights, made by Declarant prior to the Property becoming subject to this Declaration, are incorporated herein by reference and made part of this Declaration for all purposes, as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed, or conveyance executed, or to be executed, by or on behalf of Declarant conveying any part of the Property. Declarant reserves the right to make changes in and additions to the said easements and rights-of-way for the purpose of most efficiently and economically developing the Property. Further, Declarant reserves the right, without the necessity of the joinder of any Owner, or other person or entity, to grant, dedicate, reserve or otherwise create, at any time or from time to time, rights-of-way and easements for public utility purposes (including, without limitation, gas, water, cable television, electricity, telephone and drainage), in favor of any person or entity, along and on either or both sides of any Lot line, which said easement shall have a maximum width of 7.5 feet on each side of such Lot line; provided, however if the Owner of such Lot owns contiguous Lot(s) and in that instance, no easement is applicable to the boundary line between such contiguous Lots.

8.02 Installation and maintenance. There is hereby created an easement upon, across, over and under all of the Property for ingress and egress in connection with installing, replacing, repairing, and maintaining all utilities, including, but not limited to, water, gas, telephones, electricity and appurtenances thereto. By virtue of this easement, it shall be expressly permissible for the utility companies and other entities supplying service to install and maintain pipes, wire, conduits, service lines, or other utility facilities or appurtenances thereto, on above, across and under the property, within the public utility easements from time to time existing and from service lines situated within such easements to the point of service on or in any Improvement. Notwithstanding any provision contained in this section, no electrical lines, water lines or other utilities or appurtenances thereto may be relocated on the Property until approved by Declarant or the Architectural Committee. The utility companies furnishing service shall have the right to remove all trees situated within the utilities easements shown on the Plat, and to trim overhanging trees and shrubs located on portions of the Property abutting such easements.

8.03 Drainage Easements. Each Owner covenants to provide easements for drainage and water flow, as contours of land the arrangement of Improvements approved by the Architectural committee thereon, require. Each Owner further covenants not to disturb or displace any trees or other vegetation within the drainage easements as defined in this Declaration and shown on the Plat. There shall be no construction of Improvements, temporary or permanent, in any drainage easement, except as approved in writing by the Architectural Committee.

8.04 Surface Areas. The surface of easement areas for underground utility services may be used for planting of shrubbery, trees, lawns, or flowers. However, neither Declarant nor any supplier of any utility service using any easement area shall be liable to any Owner or to the Association for any damage done by them or either of them, or their respective agents, employees, servants or assigns, to any of the aforesaid vegetation as a result of any activity relating to the construction, maintenance, operation, or repair of any facility in any such easement area.

## **ARTICLE IX MISCELLANEOUS**

9.01 Term. This Declaration, including all of the covenants, conditions, and restrictions hereof, shall run until December 31, 2040, unless amended as herein provided. After December 31, 2040, this Declaration, including all such covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by the Owners of at least sixty-seven percent of the total votes allocated to the Owners of the Lots within the Property then subject to this Declaration.

### 9.02 Amendment.

(a) By Declarant. This Declaration may be amended for the purpose of complying with any requirements of Hays County, Texas, the Veterans Administration, the Federal Housing Administration, the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association by Declarant acting alone until December 31, 2035, or until Declarant no longer holds a majority of the votes in the Association, whichever occurs first. No amendment by Declarant after December 31, 2035, shall be effective until there has been recorded in the Official Public Records of Hays County, Texas, an instrument executed and acknowledged by Declarant and setting forth the amendment, and an instrument executed and acknowledged by the President and Secretary of the Board certifying that Declarant had the requisite number of votes.

(b) By Owners. In addition to the method in Section 9.02 (a), this Declaration may be amended by the recording in the Hays County Official Public Records of an instrument executed and acknowledged by the President and Secretary of the Association, setting forth the amendment and certifying that such amendment has been approved by Owners entitled to cast at least sixty-seven percent of the total votes allocated to the Owners of the Lots within the Property then subject to this Declaration.

9.03 Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third (3rd) day (other than a Sunday or legal holiday)

after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person to the Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Association.

9.04 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the development and operation of the Property and of promoting and effectuating the fundamental concepts of the Property set forth in this Declaration. This Declaration shall be construed and governed under the laws of the State of Texas.

9.05 Exemption of Declarant. Notwithstanding any provision in this Declaration to the contrary, neither Declarant nor any of Declarant's activities shall in any way be subject to the control of or under the jurisdiction of the Architectural Committee. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant to excavate and grade, to construct and alter drainage patterns and facilities, to construct any and all other types of improvements, sales and leasing offices and similar facilities, and to post signs incidental to construction, sales and leasing anywhere within the Property.

9.06 Assignment by Declarant. Notwithstanding any provision in this Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights and duties under this Declaration to any other person or entity and may permit the participation, in whole or in part, by any other person or entity in any of its privileges, exemptions, rights and duties hereunder.

9.07 Compliance with Provisions of Mount Sharp Airpark Ranch Restrictions. Each Owner shall comply strictly with the provisions of the Mount Sharp Airpark Restrictions as the same may be amended from time to time. Failure to comply with any of the Mount Sharp Airpark Restrictions shall constitute a violation of this Declaration, and shall give rise to a cause of action to recover sums due for damages or injunctive relief or both, maintainable by the Board on behalf of the Association or by an aggrieved Owner.

9.08 Enforcement and Nonwaiver.

(a) Right of Enforcement. Except as otherwise provided herein, any Owner at its own expense, Declarant, and/or the Board shall have the right to enforce all of the provisions of Mount Sharp Airpark Restrictions. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any such provision.

(b) Nonwaiver. The failure to enforce any provision of the Mount Sharp Airpark Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of said restrictions.

9.09 Construction.



(a) Restrictions Severable. The provisions of the Mount Sharp Airpark Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.

(b) Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

(c) Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise effect that which is set forth in any of the paragraphs, sections or articles hereof.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025.

DECLARANT

Mount Sharp Airpark, LLC  
a Texas limited liability company

By: \_\_\_\_\_  
Name: Rodney Huband, Jr.  
Title : Manager

STATE OF TEXAS                   §  
  §  
COUNTY OF HAYS               §

This instrument was acknowledged before me on this \_\_\_\_\_ day of June, 2025 by Rodney Huband, Jr., Manager of Mount Sharp Airpark, LLC, a Texas limited liability company, on behalf of said limited liability company.

\_\_\_\_\_  
Notary Public, State of Texas

193.37 ACRES  
KENNETH MCKENZIE SURVEY, A-334  
HAYS COUNTY, TEXAS

EXHIBIT "A"

**DESCRIPTION OF A 193.37 ACRE TRACT OF LAND SITUATED IN THE KENNETH MCKENZIE SURVEY, ABSTRACT NO. 334, HAYS COUNTY, TEXAS, BEING ALL OF THE EASTERLY REMAINDER OF A CALLED 85.72 ACRE TRACT OF LAND (TRACT ONE), ALSO BEING A PORTION OF A CALLED 19.97 ACRE TRACT OF LAND (TRACT TWO), ALSO BEING A PORTION OF A CALLED 124.55 ACRE TRACT OF LAND (TRACT THREE), ALSO BEING THE EASTERLY REMAINDER OF A CALLED 86.23 ACRE TRACT OF LAND (TRACT FOUR), SAID TRACTS BEING DESCRIBED IN DOCUMENT NO. 20027171, OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS (OPRHCTX); SAID 193.37 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**BEGINNING** at a 1/2-inch iron rod found for the northeast corner of said Tract Three, same point being on the west line of a called 118.96 acre tract of land described in Vol. 1409, Pg. 288, OPRHCTX, same point also being at the southeast corner of a called 32.05 acre tract of land described in Vol. 1228, Pg. 529, OPRHCTX, same point also being the northeast corner of the tract described herein;

**THENCE S 02°10'51" E**, with the common line of said Tract Three and said 118.96 acre tract, **a distance of 2,228.90 feet**, to a 1/2-inch iron rod found for the southeast corner of said Tract Three, same point being the northeast corner of said Tract One;

**THENCE S 02°08'29" E**, with the common line of said Tract One and said 118.96 acre tract, **a distance of 543.59 feet**, to a 1/2-inch iron rod found for an angle point in the east line of said Tract One, same point being at the southwest corner of said 118.96 acre tract and the northwest corner of a called 10.02 acre tract of land described in Vol. 325, Pg. 680, Deed Records, Hays County, Texas (DRHCTX);

**THENCE S 01°36'10" E**, with the common line of said Tract One and said 10.02 acre tract, passing at a distance of 486.40 feet a 1/2-inch iron rod found at the southwest corner of said 10.02 acre tract, same being the northwest corner of a called 8.74 acre tract of land described in Document No. 210002432, OPRHCTX, continuing with the common line of said Tract One and said 8.74 acre tract, at a distance of 660.33 feet a 1/2-inch iron rod found for the southeast corner of said Tract One, same point being the northeast corner of said Tract Four, continuing with the common line of said Tract Four and said 8.74 acre tract, and continuing for **a total distance of 971.21 feet**, to a 1/2-inch iron rod found at the southwest corner of said 8.74 acre tract, same point being at the northeast corner of a called 75.00 acre tract of land described in Document No. 20021388, OPRHCTX;

**THENCE S 01°27'16" E**, with the common line of said Tract Four and said 75.00 acre tract, **a distance of 1,088.08 feet**, to a 5/8-inch iron rod with "Whitecap Survey" cap found for the southeast corner of the tract described herein, same point being the south corner of the easterly remainder of said Tract Four, same point also being the most northerly southeast corner of the remainder of a called 68.45 acre tract of land described in Document No. 20027170, OPRHCTX;

**THENCE N 55°31'57" W**, with the west line of the easterly remainder of said Tract Four, passing the northwest corner of the remainder of said Tract Four, same point being the southwest corner of the remainder of said Tract One, and continuing along the west line of the easterly remainder of said Tract One, **a total distance of 3,003.71 feet**, to a 5/8-inch iron rod with "Whitecap Survey" cap found;

**THENCE N 53°01'29" W**, with the west line of the remainder of said Tract One, a **distance of 1,105.28 feet**, to a 5/8-inch iron rod with "Whitecap Survey" cap found on the west line of the remainder of said Tract One, same line being the east line of Mount Sharp Road (no record information found);

**THENCE N 05°53'13" E**, with the common line of said Tract One and Mount Sharp Road, a **distance of 98.72 feet**, to a 1/2-inch iron rod found for the northwest corner of said Tract One and the southwest corner of said Tract Three;

**THENCE N 03°35'13" E**, with the common line of said Tract Three and Mount Sharp Road, a **distance of 805.12 feet**, to a 5/8-inch iron rod with "Whitecap Survey" cap set for the most westerly northwest corner of the tract described herein, from which a 1/2-inch iron rod found for the most westerly northwest corner of said Tract Three bears N 03°35'13" E, a distance of 533.15 feet;

**THENCE**, through the interior of said Tract Three and said Tract Two, the following two (2) courses and distances:

**S 89°39'05" E**, a **distance of 2,183.10 feet**, to a metal fence post found, and

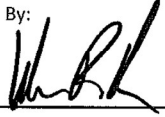
**N 00°21'57" W**, a **distance of 1,561.17 feet**, to a 5/8-inch iron rod with "Whitecap Survey" cap set on the north line of said Tract Three and the south line of said 32.05 acre tract, same point being the most northerly northwest corner of the tract described herein, from which a 1/2-inch iron pipe found for the most northerly northwest corner of said Tract Three bears S 89°07'30" W, a distance of 1,188.96 feet;

**THENCE N 89°07'30" E**, with the north line of said Tract Three, a **distance of 966.02 feet**, to the **POINT OF BEGINNING**, and containing **193.37 acres** of land, more or less.

Bearing Basis: Grid North, Texas Coordinate System, NAD 83 (2011), South Central Zone.

Units = US Survey Feet

Surveyed By:

  
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William R. Herring                      Date  
Registered Professional Land Surveyor -- No. 6355  
Hays County, Texas

4/12/2022



**Whitecap Survey Company, LLC**  
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