

007801

TOWNHOUSE DECLARATION

VOL. 1627 PAGE 0381

FOR

THE VILLAS AT THE PARK

THIS DECLARATION is entered into on the 21st day of August, 2007, by HILL RIDGE HOMES, LTD., a Texas corporation

WITNESSETH:

- A. Declarant is the record fee simple title owner of the Property as herein defined.
- B. Declarant desires to create a townhouse development pursuant to this Declaration.
- C. Declarant intends hereby to establish a plan for the individual ownership of the Lots in such development.

NOW, THEREFORE, Declarant does hereby submit the Property to the provisions of this Declaration and the townhouse development established hereby, and does hereby publish and declare that the following terms, provisions, covenants, conditions, easements, restrictions, reservations, uses, limitations and obligations are hereby established and shall be deemed to run with the Property and shall be a burden and benefit to Declarant, the Association, the Owners and their respective heirs, legal representatives, successors and assigns:

ARTICLE I

DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Architectural Control Committee" shall mean and refer to the Architectural Control Committee provided for in Article IV hereof.
- (b) "Certificate" shall mean the Certificate of Formation of the Association filed with the Secretary of State of Texas, as amended from time to time.
- (c) "Assessments" shall mean Monthly Assessments and Special Assessments, together with dues, fees, charges, interest, late fees, fines, collection costs, attorney's fees, and any other amount due the Association by the Owner of a Lot or levied against a Lot by the Association.
- (d) "Association" shall mean and refer to THE VILLAS AT THE PARK HOMEOWNERS' ASSOCIATION, INC., a Texas non-profit corporation organized and created for the purposes and possessing the rights, powers and authorities set forth herein and in the Certificate. The regulations and management of the Association including quorums notices, meetings, etc., shall be set forth in this Declaration and the Certificate and Bylaws. In the event of any conflict among those documents, the terms of this Declaration shall control.
- (e) "Board of Directors" shall mean the board of directors of the Association named in the Articles, and their successors as duly elected and qualified from time to time.
- (f) "Bylaws" shall mean the bylaws of the Association adopted by the Board of Directors, as amended from time to time.
- (g) "Common Elements" shall mean all portions of the Property other than the Lots and including any common elements and areas shown on and designated as such on the plat of the Property.

(16)

- (h) "Common Elements Easement" shall mean a perpetual, irrevocable and non-exclusive easement in favor of the Owners and the Association over the Common Elements for ingress and egress to and from each Lot together with the non-exclusive right to use and enjoy the Common Elements.
- (i) "Common Expenses" shall mean all costs and expenses, including without limitation repairs and maintenance costs, operating costs and expenses, reserves, and financial liabilities of the Association that are incurred pursuant to the provisions of this Declaration, the Bylaws or a resolution duly adopted by the Board of Directors.
- (j) "County" shall mean Kerr County, Texas.
- (k) "Declarant" shall mean and refer to the parties signing this Declaration and their heirs, successors and assigns; provided that any such successors and assigns shall receive by recorded assignment all or a portion of the rights hereunder as such Declarant by an instrument expressly assigning such rights as Declarant to such assignee.
- (l) "Declarant Control Period" shall mean that period of time from the date hereof until such time as construction of townhouses on all Lots within the Property has been completed and seventy-five percent (75%) of all Lots within the Property (including additions pursuant to Article VII hereof) are conveyed to Owners other than Declarant; provided however, that the Declarant Control Period as defined immediately preceding shall be terminated thirty (30) days after written notice from Declarant to the Association of Declarant's intention to terminate the Declarant Control Period.
- (m) "Declaration" shall mean this Declaration and all recorded amendments thereto, which Declaration and all amendments thereto shall be recorded in the County.
- (n) "Easements" shall mean collectively the Common Elements Easement, the Utility Easement, and any other easements hereunder.
- (o) "First Lien Indebtedness" shall mean any indebtedness secured by a first and prior lien or encumbrance upon an Owner's Lot.
- (p) "First Mortgagee" shall mean any Person which is the holder, insurer or guarantor of First Lien Indebtedness and which has provided the Association with written notice of its name, address and description of the Owner's Unit upon which it holds the First Lien Indebtedness.
- (q) "Improvements" shall mean all buildings, pavement, fencing, landscaping, recreational facilities, plumbing, electrical and telephone lines and computer cables and man-made objects of every type, existing or placed on the Land.
- (r) "Land" shall mean that certain tract or parcel of land located in Kerr County, Texas, and more particularly described as all of the Lots and other property within the subdivision known as The Villas at the Park, a subdivision in Kerrville, Kerr County, Texas according to the plat thereof recorded in Volume 8, Page 014, Plat Records, Kerr County, Texas, together with all and singular the rights and appurtenances pertaining thereto; and all additions thereto hereafter made by Declarant pursuant to Article VII hereof.
- (s) "Manager" shall mean any manager or management company with whom the Association contracts for the day-to-day management of the Property and/or the administration of the Association and the townhouse development located on the Land.
- (sa) "Monthly Assessment" shall mean the monthly assessments established pursuant to Article V of this Declaration by the Board of Directors to pay Common Expenses when due.
- (sb) "Owner" shall mean any Person (including Declarant) owning fee simple title to a Lot, but does not include any person having an interest in a Lot solely as security for an obligation.
- (sc) "Owner's Lot" shall mean each Lot owned by an Owner, together with the improvements located on such Lot and including the unrestricted right of ingress and egress thereto.

(dd) "Person" shall mean any individual, corporation, partnership, limited liability company, joint venture, estate, trust, unincorporated association and any fiduciary acting in such capacity on behalf of any of the foregoing.

(ee) "Property" shall mean the Land and the Improvements.

(ff) "Regulations" shall mean the rules and regulations of the Association consistent with this Declaration that are adopted by the Board of Directors and relating to the appearance, use and occupancy of the Property, including exterior appearance, use and occupancy of the Lot, as amended from time to time.

(gg) "Single Family Residence" shall mean use and occupancy by one family unit consisting of spouses, children and immediate family members.

(hh) "Special Assessment" shall mean special assessments established by the Board of Directors under the provisions of Article V of this Declaration.

(ii) "Lot" shall mean the tract or lot designated by the plat of the Land and the boundaries of which are depicted on the plat thereof and all improvements located thereon and the right of ingress and egress thereto.

(kk) "Utility Easement" shall mean a perpetual and irrevocable easement for utilities as shown on the recorded plat of the Property or as designated by Declarant.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

Section 2.1. Permissible Relationships: Description.

(a) A Lot may be acquired and held by more than one Person in any form of ownership recognized by the laws of the State of Texas.

(b) Any contract or other instrument relating to the acquisition, ownership, conveyance, transfer, lease or encumbrance of a Lot shall legally describe such Lot with further reference to the recording data for the recorded plat of the Land and shall be subject to this Declaration. Every such description shall be good and sufficient for all purposes to acquire, own, convey, transfer, lease, encumber or otherwise deal with such Lot, and any such description shall be construed to include all incidents of ownership relating to a Lot.

Section 2.2. Mortgage of a Lot. An Owner shall be entitled from time to time to mortgage or encumber such Owner's Lot by creating a lien covering the Lot under the provisions of a deed of trust, but any lien created thereby shall be subject to the terms and provisions of this Declaration, and any mortgagee or other lienholder which acquires an Owner's Lot through judicial foreclosure, public sale or any other means shall be subject to the terms and provisions of this Declaration, except as specifically provided to the contrary herein. An Owner which mortgages such Owner's Lot shall notify the Association, giving the name and address of said Owner's mortgagee. The Association shall maintain such information in a book entitled "Mortgagees of Owner's Lots." If an Owner's First Mortgagee has requested notice of default, then the Association shall notify an Owner's First Mortgagee, in writing, of any default by such Owner in the performance of such Owner's obligations as set forth in this Declaration which are not cured within sixty (60) days. Upon written request, the Association shall furnish a First Mortgagee prior written notice of all meetings of the Association and shall permit the designation of a representative of such First Mortgagee to attend such meetings.

Section 2.3. Structures. The alteration of any structure on or within a Lot and any structure hereafter constructed within a Lot shall require the approval of the Architectural Control Committee pursuant to Article IV.

ARTICLE III

USES, RESERVATIONS AND RESTRICTIONS

The Property (and each Lot situated therein) shall be occupied and used as follows and no Lot shall be used, occupied or maintained in violation of any of the following:

Section 3.1. Residential Purposes Only. Except sales and marketing office of Declarant each Lot shall be used exclusively for a Single Family Residence. Parking in the Common Elements shall be as designated for Owners and guests by the Association and shall be used exclusively for the parking of passenger automobiles, other than automobiles designed and used for competitive racing which are not permitted. No planes, trailers, boats, campers, abandoned cars or trucks shall be parked or housed outside garages or in carports and parking spaces or in any street right-of-way, except as otherwise provided in this Article. Temporary presence of guests of a family where the Owner is not present at the Lot for a period exceeding thirty (30) days shall be prohibited. Leasing of any residence shall not be permitted unless a Lot is leased for a term of at least six months, conditioned upon the approval of the tenant under each such lease by the Association based upon information requested by the Association as to such tenant and such lease shall be provided by the Owner of such Lot and shall be certified by such Owner in writing to be true, correct and complete. Any garage shall be for a maximum of two (2) passenger vehicles (excluding recreational vehicles, i.e., vehicles exceeding 20 feet in length, which are not permitted).

Section 3.2. No Mobile Homes. There shall be no mobile homes, single or doublewide, placed on a Lot regardless of whether said mobile home is intended for temporary or permanent use. The term "mobile home" (as used herein) shall include modular homes and manufactured homes. The Architectural Control Committee as provided for herein shall have the exclusive right to determine if a structure is a mobile home.

Section 3.3. Restricted Actions by Owners. No Owner shall permit anything to be done or kept on or within a Lot which would be in violation of any law or which is not related to Single Family Residential purposes.

Section 3.4. Signs. No sign of any kind shall be displayed to the public view on or from any part of the Property, without the prior consent of the Architectural Control Committee, except signs temporarily used by Declarant in the development or sale of Lots and signs used by Owners to sell their Lots in which case signs shall not exceed the typical real estate sign of approximately 24"x 28".

Section 3.5. Nuisances. Nothing shall (i) be done in any part of the Property, nor shall (ii) any noxious or offensive activity be carried on any part of the Property, nor shall (iii) any outside lighting or loudspeakers or other sound-producing devices be used that the Architectural Control Committee decides, as to any of the foregoing cases, may be or become an unreasonable annoyance or nuisance to the other Owners.

Section 3.6. Attachments. No permanent attachments of any kind or character whatsoever (including, but not limited to, television and radio antennas but excluding small dishes of less than 3 feet in diameter) shall be made to the roof or walls of any Lot, or on the ground of any Lot unless plans for such attachments shall have been first submitted to and approved by the Architectural Control Committee, as hereinafter defined.

Section 3.7. Animals. No animals, livestock or poultry shall be raised, bred or kept in or on a Lot except that dogs, cats or other household pets that live inside the Lot (but in no event are chickens, ducks, geese, wild birds or un domesticated birds permitted) may be kept, but not for any commercial purposes, provided that they do not create a nuisance and do not bark so as to create an annoyance to adjoining Owners, and provided that they are restrained and not allowed to enter upon the Lots of other Owners without the permission of the Owner thereof. Any such permitted animal may accompany an Owner on the dedicated streets and roads provided that such animal shall be on a leash at all times and any material deposited thereon by such animal shall be removed and cleaned up. No more than two (2) of any such permitted animals are permitted. Dog runs will be allowed only if approved by the Architectural Control Committee.

Section 3.8. Waste. No Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. Waste of any nature shall not be kept on any Lot except in sanitary containers. No burning of trash or rubbish shall be allowed at any time.

Section 3.9. Boats, Campers, Trailers and Recreational Vehicles. Boats, campers, trailers and recreational vehicles (i.e., passenger vehicles exceeding 20 feet in length) of all kinds shall not be allowed on any Lot except for the purpose of loading and unloading but in no event for more than twenty-four (24) hours; provided, that an Owner may maintain a boat, camper or trailer on a Lot if it is stored at all times inside of an enclosed garage with garage door closed except for temporary ingress and egress.

Section 3.10. Drainage and Maintenance. Except as approved by the Architectural Committee, each Owner shall not alter or change the drainage or seepage on, over and across, nor the grade of, such Owner's Lot by channeling,

filling, grading, excavating or any other means or acts and shall not do, permit or cause to be done any act that results or might reasonably be expected to result in any adverse change or effect on such drainage or seepage and any change in any swale shall be prohibited. Retaining walls, rock walls or other means approved by the Architectural Control Committee shall be used to prevent erosion of slopes and terraces.

Section 3.11. Fences, Walls, Hedges. No fence, wall, deck or hedge shall be placed or permitted to remain on any Lot without prior approval of the Architectural Control Committee. Any underpinnings and/or structure related to the foregoing shall be properly screened and finished (stained and painted). No chain link fences shall be permitted, and fences constructed of wood shall be stained or painted.

Section 3.12. No Prefabricated Construction. All residences and other structures constructed or erected upon or within any Lot shall be new construction, and in no event shall any prefabricated buildings, mobile home, modular home, manufactured home, or existing residences or garages be moved onto or allowed to be part of any Lot.

Section 3.13. Communication Equipment. No communication receiving or transmitting device or equipment shall be used on or within any Lot which interferes with the television reception on any other Lot without the prior written consent of the Architectural Control Committee, which consent may be withheld or, once given, revoked for any reason.

Section 3.14. Temporary Structures. Sanitary porta-can or similar on-job toilet facilities must be used during construction (and only during construction) and shall be located away from any street but no other temporary structure of any kind shall be erected or placed on or within any Lot, except that builders may place a portable office on or within a Lot on which such builder is building a Single Family Residence until construction on or of such Lot is completed. In no instance shall more than one dwelling or residence be erected or placed on or within any one Lot as the same is shown on the plat of the Property except a guest house as permitted herein. Any garage and/or servants quarters erected more than one hundred twenty (120) days prior to the completion of the main dwelling or residence shall be considered temporary structures. In no event shall any residential dwelling upon, within or part of any Lot be occupied until it is has been fully completed in accordance with the plans approved by the Architectural Control Committee. No trailer, basement, tent, shack or garage erected or placed on, within or part of any Lot shall at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

Section 3.15. Oil and Gas. No oil exploration, drilling, development or refining operations and no quarrying or mining operations of any kind, including oil wells, surface tanks, tunnels or mineral excavations or shafts shall be permitted upon or under any Lot of the Property; and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Lot nor the Property.

Section 3.16. Construction of Buildings and Other Structures. All buildings and structures on, within or part of each Lot shall be two story and of new construction and architecturally in harmony with the primary residential buildings. Any structure on, within or part of any Lot shall have masonry, hardplank, stone, wood, brick or stucco exteriors unless otherwise approved by the Architectural Control Committee and subject to the approval of the Architectural Control Committee. All roofs shall be composition. All exterior colors, including without limitation, masonry, hardplank, stone, stucco, wood, and siding shall be earth tones, grays and beiges, as well as shades of white, ivory and cream, shall be the same as to each separate building, and are subject to the approval of, and as otherwise approved by, the Architectural Control Committee. Roofs must be superior in quality and appearance, and the color "weatherwood" or equivalent. All construction within the Property, including of or on any Lot shall be completed by builders who are approved by the Architectural Control Committee and who are qualified to complete such construction in accordance with applicable rules, regulations, laws and ordinances.

Section 3.17. Encroachments. No tree, shrub or plant of any kind on any Lot shall be allowed to overhang or otherwise encroach upon any Common Element without the prior written approval and authorization of the Declarant.

Section 3.18. Machinery, Fixtures and Equipment. No machinery, fixtures or equipment of any type, including without limitation heating and air conditioning or refrigeration equipment shall be placed, allowed or maintained upon the ground of any Lot, except with prior written approval and authorization of the Architectural Control Committee, and then if visible to any other neighboring Lots, property, pathways and streets only in areas attractively screened or concealed (subject to all required approvals as to architectural control) from view of neighboring Lots, property, pathways and streets; and no such machinery, fixtures or equipment shall be placed, allowed or maintained anywhere other than on the ground (such as on the roof) except if screened or concealed (subject to all required approvals as to

architectural control) in such manner that the screening or concealment thereof appears to be part of the integrated architectural design of the structure and does not have the appearance of a separate piece or pieces of machinery, fixtures or equipment.

Section 3.19. Utility and Service Lines. No electric, power, telephone, water, sewer, cable television or other utility or service lines of any nature or kind shall be placed, allowed or maintained upon or above the ground on any Lot, except to the extent, if any, underground placement thereof may be prohibited by law or would prevent the subject line from being functional. The foregoing shall not prohibit service pedestals and above ground switch cabinets and transformers where required. The Owner of each Lot shall, at his own cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and applicable codes) the underground service cable and appurtenances from the point of the metering on customer's structure to the point of attachment at installed transformers or energized secondary junction boxes. Each Owner of each Lot shall, at his own cost, furnish, install, own and maintain a meter loop (in accordance with the then current standards and specifications of the company furnishing service) for the location and installation of the meter of such company for the residence constructed on, within and as part of such Owner's Lot. For so long as underground service is maintained, the services to each Lot therein shall be underground and uniform in character.

Section 3.20. Burning and Incinerators. No open fires or burning shall be permitted on any Lot at any time and no incinerators or like equipment shall be placed, allowed or maintained upon any Lot. The foregoing shall not be deemed to preclude the use, in customary fashion, of outdoor residential barbecues, grills or contained stone firepits.

Section 3.21. Repairs. No repairs of any detached machinery, equipment or fixtures, including without limitation motor vehicles, shall be made upon any portion of any Lot within view of neighboring property, pathways and streets, without the prior written approval and authorization of the Architectural Control Committee.

Section 3.22. Violation of Statutes, Ordinances and Regulations. No Lot shall be maintained or utilized in such manner as to violate any applicable statute, ordinance or regulation of the United States of America, the State of Texas, the County of Kerr, or any other governmental agency or subdivision having jurisdiction in the premises.

Section 3.23. Prosecution of Construction, Maintenance and Repairs. All construction, maintenance and repair work shall be prosecuted diligently from commencement until completed.

Section 3.24. Water and Sewer. All water and sewer lines from and for each Lot to the common water and sewer lines (i.e., all water and sewer lines which service such Lot) shall be maintained by the Association at its own costs.

Section 3.25. Exemption for Purpose of Construction Development and Sale. The Declarant shall have the right during the initial construction, development and sale of the townhouse development to grant reasonable and specifically limited exemptions from these restrictions to itself and any other developer or contractor. Any such exemptions shall be granted only upon specific written request, itemizing the exemption requested, the location thereof, the need therefor and the anticipated duration thereof; and any authorization and approval thereof shall be similarly itemized. No such exemption shall be broader in terms of activity, location or time than is reasonably required.

Section 3.26. Lighting. No Owner or occupant of a Lot may place any light on, within or part of any Lot which would reasonably cause offense to the Owner or occupant of any other Lot. In the case of a dispute over this matter the Architectural Control Committee or an agent appointed by said Committee shall be the final arbitrator on the placement of any light.

Section 3.27. Operation of Vehicles. Except for vehicles used by maintenance crews employed by the Association, no off-road vehicles (including mopeds and all terrain vehicles) will be permitted anywhere within the Property. All vehicles operated within the Property must be licensed for operation on public streets, and all vehicles operated within the Property must be operated by individuals licensed to operate such vehicles.

Section 3.28. Maintenance/Insurance. Each Owner shall be responsible for and shall maintain and repair, at the Owner's sole cost and expense, the Owner's Lot and improvements on the Owner's Lot in accordance with Article VI of this Declaration. Each Owner shall maintain insurance on such Owner's Lot, the improvements thereon and the property therein and shall provide proof thereof to the Association.

Section 3.29. Easements. Declarant hereby reserves the Access Easement and Utility Easement for the benefit of all Owners, the Association and its agents, employees and representatives, including the Manager and the Manager's agents and employees as the case may be, and each Owner shall by virtue of this Declaration, accept the deed to such Owner's Lot subject to the Common Elements Easement and Utility Easement. Declarant hereby reserves for the benefit of each Owner, the Common Elements Easement and declares that by virtue of this Declaration the Common Elements shall be subject to the Common Elements Easement. Declarant shall have, in addition to the rights to relocate, the right to grant easements for such purposes over, under and across the Property and Declarant reserves the easements and rights-of-way as shown on the plat of the Property or created hereunder for said purposes. Full rights of ingress and egress shall be had by Declarant, and its successors and assigns, at all times over the Property for the installation, operation, maintenance, repair or removal of any utility, together with the right to remove any obstruction that may be placed in such easement, or with the use, maintenance, operation or installation of such utility. Notwithstanding the foregoing, however, Declarant covenants that at any such time as the utilities referred to in this Section shall have been installed or otherwise located on the Property, Declarant will by written instrument recorded in the Deed Records of Kerr County, Texas, define the exact location of each such easement and will release the remainder of the Property from the provisions of this Section. Any such instrument when executed and filed of record by Declarant shall be effective to limit the location of the easement provided for therein in accordance with its terms and conditions, notwithstanding that the utility company may not have executed such instrument.

Section 3.30. Surface Drainage Easements. Surface drainage easements as shown in the map or plat are intended for either periodic or occasional use as conductors for the flow of surface water runoff to a suitable outlet, and the land surface shall be constructed and maintained so as to achieve this intention. Such easements shall be maintained in an unobstructed condition and the Association, to the extent not specifically precluded from doing so by law, shall have the right to repair and maintain such easements, or to require such repair and maintenance, as shall be reasonably necessary to keep the conductors unobstructed.

Section 3.31. Change to Easements. Declarant reserves the right to make changes in and additions to the above Easements for the purpose of most efficiently and economically installing the Improvements and Common Elements.

Section 3.32. No Liabilities. Neither Declarant nor any utility company using the Easements herein referred to, shall be liable for any damages done by them or their assigns, their agents, employees or servants, to fences, shrubbery, trees or flowers or other property of the Owner situated on the land covered by said Easements.

Section 3.33. Incorporated into Deed. It is expressly agreed and understood that the title conveyed by any Owner to any Lot or parcel of land within the Property by contract, deed or other conveyance shall be subject to (a) any easement affecting same for roadways or drainage, water, sewer, storm sewer, electric light, electric power, telegraph, telephone or other utility purposes and shall convey no interest in any pipes, lines, poles or conduits, or in any utility facility or appurtenances thereto, constructed by or under Declarant or any Easement owner, or their agents through, along or upon the premises affected thereby, or any part thereof, to serve said land or any other portion of the Property and (b) the right of Declarant, its successors and assigns, to maintain, repair, sell or lease such appurtenances to any governmental agency or to any public service corporation or to any other party (and such right is hereby expressly reserved).

Section 3.34. Compliance. Each Owner, by accepting or possessing a Lot, shall be deemed to have agreed to strictly comply with the provisions of this Declaration, Bylaws and Regulations. A failure or refusal to so comply with the provisions of any such instrument, after written notice, shall be grounds for an action to recover damages or sums due, with interest thereon at the rate of ten percent (10%) per annum, or for injunctive relief, or both, and for reimbursement of all attorneys' fees incurred in connection therewith, which action shall be maintainable by the Board of Directors or the Manager in the name of the Association on behalf of all of the Owners or, in a proper case, by an aggrieved Owner. In addition, an Owner's voting rights in the Association and Owner's or Owner's lessee's right to use and enjoy the Common Elements may by written notice be suspended by the Association during the period of such noncompliance.

Section 3.35. Encroachments. If as a result of the original construction, reconstruction, repair, shifting, settlement or other circumstance any portion of the Common Elements encroaches upon an Owner's Lot, an irrevocable and perpetual easement for such encroachment and for the maintenance of the same is hereby granted and conveyed to the Association by each Owner at the time each Owner's Lot is conveyed to the Owner. If as a result of the original construction, reconstruction, repair, shifting, settlement or other circumstance any portion of an Owner's Lot encroaches upon the Common Elements, or upon any adjoining Owner's Lot, an irrevocable and perpetual easement for such

encroachment and for the maintenance of the same is hereby granted to the Owner of such Owner's Lot. Such encroachments and easements shall not be considered or determined to be encumbrances either upon a Lot or upon the Common Elements.

Section 3.36. Mechanic's Liens; Indemnification. No labor performed or materials furnished and incorporated in an Owner's Lot with the consent or at the request of an Owner or an Owner's agents or representatives, shall be the basis for the filing of a lien against the Lot of any other Owner not expressly consenting to or requesting the same, or against the Common Elements. Each Owner shall indemnify and hold harmless each of the other Owners and the Association from and against all liabilities and obligations arising from the claim of any lien against the Lot of such other Owners or the Common Elements.

Section 3.37. Taxes. Each Lot shall be subject to separate assessment and taxation. Each Owner shall be responsible for and shall pay when due all taxes, assessments and other governmental impositions lawfully levied or assessed with respect to such Owner's Lot. Any taxes, assessments or other governmental impositions lawfully levied or assessed with respect to the Property not separately billed to the Owners shall constitute a Common Expense and be payable by the Association.

Section 3.38. Utilities. The Association shall pay as Common Expenses water costs and charges and each Owner shall be responsible for and shall pay all gas, electricity and other utility charges relating to such services used or consumed at or with respect to the occupancy of the Owner's Lot, to the extent such charges are separately metered by the respective utility companies. Any utility charges not so separately metered, and charges relating to such services used in connection with the use and maintenance of the Common Elements, shall constitute a Common Expense and be payable by the Association.

ARTICLE IV

ARCHITECTURAL CONTROL

Section 4.1. Architectural Control Committee. Notwithstanding anything contained in this Declaration to the contrary, no erection of buildings or exterior additions or alterations to any building situated upon the Property nor erection of or changes or additions in fences, hedges, walls and other structures, nor construction of any improvements nor any changes in the exterior color of any building, structure, fence, wall or other improvement, shall be commenced, erected or maintained, unless by Declarant with respect to the Common Elements, until (1) a preliminary sketch showing the basic plan (including a plot plan showing the location of the proposed improvements on a Lot) and general specifications of same shall have been submitted to and approved by an Architectural Control Committee which shall be designated by Declarant (whose members may be appointed, removed and replaced as Declarant shall determine) and (2) the final plans, drawings and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the Architectural Control Committee as to compliance with design guidelines promulgated by the Architectural Control Committee and as to harmony of external design, appearance, and location in relation to existing structures and topography (and in this regard the Architectural Control Committee shall have full and unqualified discretion to specify and prescribe the exterior design and the type, color, percentage of coverage and general appearance of all exterior materials incorporated into such building or other structure). A copy of the approved plans, drawings and specifications shall be furnished by the Owner to the Architectural Control Committee and retained by the Architectural Control Committee. In the event the Architectural Control Committee fails to approve or disapprove such design and location within thirty (30) days after the said plans, drawings and specifications have been submitted to it, or, in any event, if no suit to enjoin the addition, alteration or change has been commenced prior to the completion thereof, approval will not be required and this Article will be deemed to have been fully complied with; provided, however, failure to timely approve or disapprove such plans and specifications shall not be deemed to permit the erection, construction, placing or altering of any structure on any Unit in a manner prohibited under the terms of this Declaration. The members of the Architectural Control Committee shall not be entitled to compensation for, or liable for damages, claims or causes of action arising out of, services performed pursuant to this Article. Until the end of Declarant's Control Period, the Architectural Control Committee shall be composed of persons designated by Declarant. A majority of the Architectural Control Committee may approve or disapprove any matter before the Architectural Control Committee; provided that the Architectural Control Committee may for good cause shown approve variances as to any provisions of this Declaration as to construction and repair, but such variance shall require approval of a majority of the members of the Architectural Control Committee; and provided, further, that any person (including any Owner, Declarant or member of the Architectural Control Committee) may request approval of any matter by the Architectural Control Committee, and a majority of the members of the

Architectural Control Committee shall then be required.

Section 4.2. Committee Membership. The Architectural Control Committee shall be initially composed of three (3) members named by Declarant who by majority vote may designate a representative to act for them.

Section 4.3. Replacement. In the event of death or resignation of any member or members of said Architectural Control Committee, the remaining member or members shall appoint a successor member or members, and until such successor member or members shall have been so appointed, the remaining member or members shall have full authority to approve or disapprove plans, specifications and plot plans submitted or to designate a representative with like authority.

Section 4.4. Minimum Construction Standards. The Architectural Control Committee may from time to time promulgate an outline of minimum acceptable construction standards; provided, however, that such outline will serve as a minimum guideline and such Architectural Control Committee shall not be bound thereby.

Section 4.5. Liability and Assignment.

- (a) The Declarant, Architectural Control Committee and the individual members thereof shall not be liable for any act or omission in performing or purporting to perform the functions delegated hereunder.
- (b) Declarant hereby retains its rights to assign the duties, powers and responsibilities of the Architectural Control Committee to a successor Declarant or to the Association, and the term "Architectural Control Committee" herein shall include such successor Declarant or the Association, as such assignee. The Declarant or any successor Declarant will assign all of its rights with respect to the duties, powers and responsibilities of the Architectural Control Committee, including the power to designate members of the architectural Control Committee, to the Association upon the expiration of the period of Declarant Control. Thereafter, the members of the Architectural Control Committee shall be appointed, removed, and replaced by the Board of Directors of the Association, who shall serve for one (1) year term, or until their successors are appointed.
- (c) The approval or lack of disapproval by the Architectural Control Committee shall not be deemed to constitute any warranty or representation by such Committee including, without limitation, any warranty relating to fitness, design or adequacy of the proposed construction or compliance with applicable statutes, codes and regulations. Anything contained in this paragraph or elsewhere in this Declaration to the contrary notwithstanding, the Architectural Control Committee, and its duly authorized representative, is hereby authorized and empowered, at its sole and absolute discretion, to make and permit reasonable modifications of and deviations from any of the requirements of this Declaration relating to the type, kind, quantity or quality of the building materials to be used in the construction of any building or improvement on any Lot and of the size and location of any such building or improvement when, in the sole and final judgment and opinion of the Architectural Control Committee, or its duly authorized representative, such modifications and deviations in such improvements will be in harmony with existing structures and will not materially detract from the aesthetic appearance of the Property and its improvements as a whole.

ARTICLE V

COMMON ELEMENTS/ASSOCIATION

Section 5.1. Common Elements. The Association and the Owners shall have an easement for access to and the use of the Common Elements. Notwithstanding anything to the contrary herein set forth, all utility companies, public and quasi-public, and all governmental agencies and each of their respective departments and employees (e.g., fire, sheriff and police departments) shall have access to and the right to use of the Common Elements and may exercise such authority therein as is necessary to reasonably complete its duties and functions (e.g., reading meters, fire prevention, safety and police enforcement and mail deliveries).

Section 5.2. Monthly Assessments; Budget.

(a) The Association shall possess the right, power, authority and obligation to establish a regular Monthly Assessment sufficient in the judgment of the Board of Directors to pay all Common Expenses when due. Such Monthly Assessments so established shall be payable by the Owners on the first day of each calendar month, and shall be applied to the payment of charges for which the Association is responsible, including, without limitation, charges relating to maintenance and repair of the exterior of all buildings, care of the Common Elements, casualty, public liability and other insurance coverages required or permitted to be maintained by the Association, water costs and expenses, governmental impositions not separately levied and assessed, utilities relating to the Common Elements or not separately metered, professional services such as management, accounting and legal, and such other costs and expenses as may reasonably relate to the proper maintenance, care, operation and management of the Property, and the administration of the Association and the townhouse development established hereby, including an adequate reserve fund for the periodic maintenance, repair and replacement of the Common Elements and exterior maintenance and repair. No consent or approval of the Owners shall be required for the establishment of the Monthly Assessments. Collection of Monthly Assessments, as to each Owner, shall commence as provided in this Declaration.

(b) Prior to the commencement of each fiscal year of the Association thereafter the Board of Directors shall prepare and deliver to each of the Owners a budget setting forth the anticipated Common Expenses for the ensuing year. Such budget shall be in sufficient detail so as to inform each Owner of the nature and extent of the Common Expenses anticipated to be incurred, and shall be accompanied by a statement setting forth each Owner's monthly share thereof and the date as of which such Monthly Assessment commences to be payable. No further communication shall be necessary to establish the amount of each Owner's obligation regarding the Monthly Assessment payable hereunder, and the failure of the Board of Directors to timely deliver the budget provided for herein shall in no event excuse or relieve an Owner from the payment of the Monthly Assessments contemplated hereby. Any budget prepared and delivered to the Owners as hereby contemplated may be amended as and to the extent reasonably necessary, and the amount of an Owner's Monthly Assessment changed to correspond therewith. If the proposed budget, as may be amended, for a fiscal year increases more than twenty percent (20%) above the budget for the preceding fiscal year, such budget must be approved by the affirmative vote of the Owners holding not less than sixty-seven percent (67%) of the votes allocated by the Declaration. Otherwise, no such approval shall be required.

The initial monthly assessment for the first phase of the Villas at the Park shall not exceed \$100.00 for the 2008 calendar year.

(c) Declarant will contribute to the Association the sum of \$150.00 for each Lot in the first phase of the Villas at the Park (15 Lots) to cover initial operating expenses of the Association.

Section 5.3. Special Assessments. In addition to the Monthly Assessments contemplated by Section 5.2, the Association shall possess the right, power and authority to establish Special Assessments from time to time as may be necessary or appropriate in the judgment of the Board of Directors to pay non-recurring Common Expenses relating to the proper maintenance, care, alteration, improvement, operation and management of the Property, and the administration of the Association. No consent or approval of the Owners shall be required for the establishment of a Special Assessment as contemplated by this Section, except for any Special Assessment that would result in the sum of proposed Special Assessments and Monthly Assessments for a fiscal year collectively would be 200% or more of the sum of Special Assessments and Monthly Assessments for the preceding fiscal year. In the latter case, the proposed Special Assessment must be approved by the affirmative vote of those Owners holding not less than sixty-seven percent (67%) of the votes allocated by this Declaration at a meeting of the Association duly called for purposes of considering same.

Section 5.4. Obligation to Pay Assessments. Each Owner shall be personally obligated to pay Owner's share (i.e., per Lot owned), of all Assessments duly established pursuant to this Declaration. Unpaid Assessments due as of the date of the conveyance or at Closing of the sale of the Lot or transfer of a Lot shall not constitute a personal obligation of the new Owner (other than such new Owner's pro rata share of any reallocation thereof); however, the former Owner shall continue to be personally liable for such unpaid Assessment. No Owner shall be entitled to exemption from liability for Owner's obligation to pay such Assessments by waiver of the use and enjoyment of the Common Elements, by an abandonment of the Owner's Lot or by any other action whatsoever. Any Assessment not paid within five (5) days of the date due shall bear interest at the rate of 10% per annum, and shall be recoverable by the Association, together with interest as aforesaid and all costs and expenses of collection, including reasonable attorneys' fees, by suit in a court of

competent jurisdiction sitting in the County. It shall be the responsibility of the Board of Directors to collect any such delinquent Assessment, the existence of which shall be made known by written notice delivered to the defaulting Owner and, where requested, the Owner's First Mortgagee. The Association shall give written notice of any sixty (60) day delinquency in the payment of assessments or charges by an Owner to the First Mortgagee of such Owner's Lot to the extent the First Mortgagee has requested such notices be provided.

Section 5.5. Lien to Secure Payment of Assessments. Declarant hereby reserves and assigns to the Association a lien, pursuant to the provisions of Section 51.002 of the Property Code of the State of Texas, against each Owner's Lot, to secure the payment of all Assessments, which lien shall be and constitute a lien and encumbrance, in favor of the Association, upon such Owner's Lot. The liens established herein shall be prior and superior to all other liens and encumbrances subsequently created upon such Owner's Lot, regardless of how created, evidenced or perfected, other than the lien securing the payment of First Lien Indebtedness, and the liens for unpaid taxes, assessments and other governmental impositions. The liens and encumbrances created herein may be enforced by any means available at law or in equity, including without limitation, a non-judicial foreclosure sale of the Lot of a defaulting Owner; such sale to be conducted in the manner set forth in Texas Property Code Section 51.002 (as now written or as hereafter amended). The Owner of each Lot, by acquisition of such Owner's Lot, grants to the Association a power of sale in connection with the Association's liens. By written resolution, the Board of Directors may appoint, from time to time, an officer, agent, trustee, or attorney of the Association to exercise the power of sale on behalf of the Association. The Association may bid for and purchase the Owner's Lot, as a Common Expense, at any such foreclosure sale. The foreclosure by a First Mortgagee of an Owner's Lot in order to satisfy First Lien indebtedness will extinguish the subordinate lien for any Assessments which became payable prior to the date of such foreclosure sale.

Section 5.6. Commencement of Obligation to Pay Assessments. Each Owner shall be obligated to commence payment of all Assessments against such Owner's Lot on the date the Owner's Lot is conveyed to the Owner. If such date is other than the first day of a month, then such Owner shall be obligated to pay only a pro rata share of the Assessment against such Owner's Lot based on the number of days during such month that the Owner will hold title to the Owner's Lot.

Section 5.7. Notice of Default. If the Owner of a Lot defaults in the Owner's monetary obligations to the Association, the Association may notify other lienholders of the default and the Association's intent to foreclose its lien. The Association shall notify any holder of a recorded lien against a Lot which has given the Association a written request for notification of the Owner's monetary default or the Association's intent to foreclose its lien.

Section 5.8. Alternative Actions. Nothing contained in this Declaration shall prohibit the Association from taking a deed in lieu of foreclosure or from filing suit to recover a money judgment for sums that may be secured by the lien.

Section 5.9. Allocation of Votes in the Association. Each Owner shall automatically be a member of the Association and shall possess one vote for each Lot owned by such Owner. All voting rights of an Owner may be suspended during any period that such Owner is delinquent in the payment of any Assessment duly established pursuant to this Declaration, or otherwise in default under the terms of this Declaration, the Bylaws or the Regulations. Any matter described herein as requiring approval by a stated percentage or a majority of the Owners shall mean a stated percentage or a majority of the allocated votes held by those Owners who are then eligible to vote.

Section 5.10. No Assignment of Lien Rights. The Association may not assign or transfer its lien rights as to any Lot unless accomplished in connection with financing obtained by the Association.

Section 5.11. Title to the Common Area. By execution and delivery of this Declaration, the Declarant hereby covenants that on or prior to the sale of the first Lot to an Owner other than Declarant it will convey fee simple title to the Common Area to the Association, for the benefit and use of the Owners, with reservation of Declarant's rights set forth in this Declaration, and otherwise free and clear of any encumbrances except for the maintenance charge and liens therefore set forth in this Declaration and any easements granted for public utilities or for other public purposes consistent with the intended use of the Common Area by the Association. As a right running with the real property and subject to the rights, powers and authority of the Association, ownership of each Lot within the Property shall entail the use, benefit and enjoyment of all of the Common Area, including, but not limited to, walks, pavements, driveways, parking areas, entrances and exits owned by the Association, and there shall always be access by both pedestrians and vehicles to and from each Lot (or designated private parking space with respect to vehicles) to a street dedicated to public use without hindrance of such communication ways by the Association and/or Owners. The Association shall hold legal

title to the Common Area in severalty pursuant to this Declaration.

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ARTICLE VI

MAINTENANCE

Section 6.1. Maintenance.

(a) Each Owner shall be responsible for and shall maintain and repair, at the Owner's sole cost and expense, the Owner's Lot and the improvements on such Owner's Lot except only the maintenance obligations of the Association as herein expressly provided including the Common Elements and exterior of all buildings; provided that such Owner shall be liable for the cost and expense of repair and maintenance of the Common Elements and the repairs which are the obligation of the Association if they are caused by the willful or negligent misuse thereof by such Owner, or by the occupants, the guests or the invitees of such Owner, in which event such costs and expenses shall constitute the sole obligation of such Owner. Any maintenance and repair work to an Owner's Lot done by or on behalf of the Owner shall be done in a good and workmanlike manner using materials of equal or better quality than the materials removed.

(b) Each Owner shall repair and maintain the interior of the improvements on such Owner's Lot including, without limitation, all systems that serve only or are a part of the improvements on such Owner's Lot, fixtures and appliances therein contained, and all interior doors and interior windows (but not exterior doors or windows which shall be maintained and replaced by the Association) and the replacement thereof (including but not limited to hardware and glass). No Owner shall be required to directly pay the cost and expense of exterior of the improvements on such Owner's Lot or to the Common Elements unless necessitated by the willful or negligent misuse thereof by the Owner, the occupants, guests or the invitees of such Owner, in which event such costs and expenses shall constitute the sole obligation of such Owner, who was, or whose occupants and/or invitees were, guilty of such willful or negligent misuse. Any maintenance and repair work to an Owner's Lot done by or on behalf of the Owner shall be done in a good and workmanlike manner using materials of equal or better quality than the materials removed, and shall be done in such a manner as not to impair the structural soundness or integrity or to alter the exterior appearance of any building or improvement on an Owner's Lot. In the event an Owner fails to discharge the Owner's maintenance obligations hereunder, the Association shall be entitled (but not obligated) to cause such work to be done, and the cost and expense thereof shall be and constitute a lien upon such Owner's Lot which lien may be enforced in the same method as is provided for the enforcement of Assessments liens pursuant to the provisions of this Declaration. Damage to the interior of any improvements on a Lot resulting from such maintenance, repair and replacement activities by the Association, whether by reason of an emergency or otherwise, shall constitute a Common Expense and be payable by the Association; provided, however, that if such maintenance, repairs or replacements are the result of the misuse or negligence of an Owner, or its occupants, guests or invitees, then such Owner shall be responsible and liable for all such damage.

(c) All Common Elements and the exterior of all buildings shall be maintained by the Association, the cost and expense of which shall constitute a Common Expense and be payable by the Association. The Association shall maintain in good condition and repair the Common Elements (excepting only maintenance of those portions of utility systems from the point that they enter the improvements on a Lot or are a part of interior improvements on an individual Owner's Lot), and shall establish and maintain an adequate reserve fund for such purposes. Subject to the provisions of this Declaration, nothing herein shall be deemed or construed as relieving any Owner from liability or responsibility for damage to the Common Elements caused by the willful or negligent misuse thereof or misconduct thereon of such Owner or Owner's guests, occupants or invitees.

(d) The Association shall provide and complete the following and the cost and expense of the following shall be a Common Expense:

1. Taxes and assessments, and other liens and encumbrances, which shall properly be assessed or charged against the Common Elements (but not the Lots).
2. Exterior maintenance of the improvements on each Lot, including, but not limited to, roof maintenance, painting, gardening, landscaping and any other desired exterior improvements for each Lot and the improvements thereof, except as the Owner's obligations herein provided.
3. Policies of Insurance for the Common Elements.

(e) The Association shall not be liable for injury or damage to any person or property caused by the elements or by the Owner of any Lot, or any other person, or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder. The Association shall not be liable to any Owner or occupants of any Lot, guests, invitees or occupants, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements. The Association shall not be liable to any Owner or guests, invitee or occupant for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Declaration where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities.

(f) In the event a dispute shall arise among Owners as to the proper party to bear a maintenance cost or expense, the Board of Directors shall be entitled to resolve such dispute; provided, however, that nothing herein shall be deemed or construed as limiting an Owner's right to have the provisions of this Section interpreted by a court of competent jurisdiction; provided further, however, that any such cost or expense so disputed shall be paid in accordance with the determination of the Board of Directors pending final judgment in any such legal proceedings.

Section 6.2. Alterations. No Owner shall be entitled to alter, add or improve the Owner's Lot, in a manner as will or might reasonably be expected to affect the exterior appearance of any of the Improvements, any system that services more than one Owner's Lot, or any warranty in favor of the Association, without the prior written consent of the Association and in compliance with all Regulations established by the Association. No Owner shall be entitled to make any alteration, addition or improvement to Common Elements unless the prior written consent of all Owners having an interest therein is obtained. Any alterations, additions and improvements made pursuant to this Section shall be made at the individual cost and expense of the Owner having an interest in the Owner's Lot so altered, added or improved.

Section 6.3. Party Walls. Each wall which is built as a part of the original construction of the improvements on a Lot and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with this Declaration, the general rules of law regarding party walls and of liability for property damage due to negligence or willful acts or omissions shall apply thereto. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use. There shall be no impairment of the structural integrity of any party wall without the prior written consent of the Owners whose Lot is affected by such. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to assert a claim for a larger contribution from the others under any rule of law regarding liability for negligence or willful acts or omissions.

Section 6.4. Casualty, Reconstruction or Repair. In case of fire, casualty or any other disaster, the Owner of the Lots affected by same shall repair and reconstruct the improvements damaged promptly. Reconstruction, as used in this paragraph, means restoring the improvements to substantially the same condition in which they existed prior to the fire, casualty or other disaster, with the improvements on each Lot having the same vertical and horizontal boundaries as before. Such reconstruction shall be accomplished by the Owner of the Lots affected by such fire, casualty or any other disaster.

The Owner shall immediately take all actions consistent herewith to rebuild such improvements pursuant to the original plans and specifications, or such other plans and specifications, or such other plans and specifications as may be approved by the Architectural Committee, within six (6) months after the casualty.

The damaged portion and all debris must be removed within thirty (30) days, unless an extension of time is granted by the Association for good cause.

Section 6.5. Insufficiency of Proceeds. If the insurance proceeds are insufficient to repair and reconstruct improvements, damage to or destruction of such improvements such repair and reconstruction shall be promptly repaired and restored by the Owners whose Lots are affected.

Section 6.6. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages granted or created by the Owner of any Lot to secure the payment of monies advanced and used for the purpose of purchasing and/or improving such Lot. When used herein, the phrase "mortgagee", "first mortgagee", "mortgagees granted to secure loans for the purchase or improving of a Lot", and similar phrases shall be deemed to include Bank of the Hills, N.A., a branch of Sterling Bank, in Kerrville, Texas and mortgages

granted by Declarant to said Bank. Sale or transfer of any Lot shall not affect the assessment lien; provided, however, the sale or transfer of any Lot pursuant to a foreclosure (or Deed in lieu of foreclosure) under such purchase-money or improvement mortgages shall extinguish the lien of such assessments (and liability for payment thereof by the purchaser at such foreclosure or the grantee in any Deed in lieu of foreclosure) as to payments thereof coming due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VII

ANNEXATION

Section 7.1. Annexation of Additional Property. Declarant hereby declares that it presently contemplates that a future time the properties subject to this Declaration may be expanded by bringing within the scheme of this Declaration the remainder of Lot 1, Block 2, Mesa Park Phase I, according to plat recorded in Volume 4, Page 76, Real Property Records of Kerr County, Texas. Such properties as may be annexed may contain a contemplated additional sixty-four (64) Townhouse units, although the exact number may vary due to design or planning changes which may hereafter occur. Subject only to the limitations expressly set forth in this Article VII, Declarant shall have the right, at any time from time to time within ten (10) years from the date hereof, and without the consent of the Association, its Board of Directors, any mortgagee, or any other Owners, to bring within the scheme of this Declaration, in one or more future stages or additions of development, said additional property; it being the intention of this instrument that such additional properties may be annexed during such period at the sole discretion of Declarant, without the consent of any other party whatsoever.

All such additions hereunder shall be developed in a manner similar to the development of the existing Property in accordance with a general plan of development under which (i) the architectural standards prevailing within the existing Property will be continued in such annexed properties (ii) the residential dwellings to be constructed on Lots within such annexed properties will be townhouses and will be similar to the townhouses constructed on the existing Property, and (iii) the Lots within the annexed properties will become subject to assessment in the same manner as then prevailing for the existing Property.

The additions authorized under this Article VII shall be made by filing of record a Supplementary Declaration(s) of Covenants, Conditions and Restrictions with respect to the additional property which shall (i) extend the scheme of the covenants and restrictions of this Declaration to such property, (ii) provide that the percentage equitable interests in the Common Area of the Owners immediately prior to the filing of such Supplementary Declaration(s) shall be adjusted so that the percentage interest of each Owner after the filing of such Supplementary Declaration shall be equal to the number of Lots owned by such Owner divided by the total number of Lots within the property then subject to this Declaration after such annexation; (iii) describe the Lots and Common Area within the annexed properties, (iv) provide that each Owner of a Lot within the annexed properties shall be a member of the Association, entitled to all benefits, including voting rights, of an Owner as herein provided, (v) subject such Lots within the annexed properties to the assessments herein provided and liens securing same, (vi) provide that Declarant will execute and deliver a deed to the Association conveying to the Association all of the area within such additions (except for the Lots herein), as Common Area for the benefit and use of the Owners, as provided herein, with reservation of Declarant's rights set forth herein, and (vii) contain such other terms and provisions as Declarant may deem advisable to effectuate such annexation.

Declarant may cause to be recorded as many separate Supplemental Declarations as may be desired by Declarant from time to time, and at any time, to effect the annexation of the property described herein, together with the improvements then situated thereon. Declarant further reserves the right, at any time and from time to time, without requesting or receiving the consent of any Owner or any mortgagee, to replat, amend the recorded plat, modify, alter or otherwise change the legal or other status or configuration of the property to be annexed, to grant easements, and to otherwise take such action as may be deemed necessary by Declarant to satisfactorily effect the provisions hereof. Each Owner hereby appoints Declarant as its attorney-in-fact for the purpose of effecting the provisions of this Article VII, and the power hereby granted to Declarant shall be, and is, a power coupled with an interest, is irrevocable and shall not terminate upon the disability of a principal. Upon the recordation of a Supplementary Declaration in compliance with the provisions of this Article VII adding additional property, this Declaration shall further apply to and affect all of the property described in this Declaration and the property described in any such Supplemental Declaration, and shall also bind all Owners of any part of such property with the same effect as if the property described in the Supplemental Declaration were originally subject to and described in this Declaration. Thereafter, the powers and responsibilities of the

Association shall be coextensive with regard to all property subject hereto, and the Association shall, pursuant to the provisions of this Declaration, constitute the Association for the entire properties, and the rights, obligations and duties of each Owner shall be the same and identical to the rights, obligations and duties of the Owners prior to recordation of such Supplemental Declaration, except (i) as each Owner's percentage equitable interest in the Common Area may be modified in accordance with this Declaration upon any such annexation of additional property, and (ii) that the total number of Association members and corresponding votes of the membership may be increased by such annexation, it being specifically recognized and acknowledged that each Owner's percentage equitable interest in the Common Area, and the weight of each Owner's vote pursuant to Association membership, may be reduced by such annexation. The Association shall thereupon continue to maintain its maintenance fund and replacement reserve fund for the collection and disbursement of monies as required and permitted hereby for the maintenance, repair and operation of the Property (as expanded) and in all respects and meanings, the Property (as expanded) shall be deemed to be a single project for the purposes and in accordance with the provisions of this Declaration.

This Declaration, including but not limited to this Article VII, does not presently create any interest in or with respect to the property described in this Article VII, and this Declaration shall not affect in any manner all or any part of such property unless and until a Supplementary Declaration is filed with respect thereto in accordance with this Article VII.

ARTICLE VIII

GENERAL PROVISIONS

Section 8.1. Term and Termination; Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

Declarant reserves the right to amend the provisions hereof at any time, and from time to time, prior to termination of the Declarant Control Period, provided that (a) any such amendment does not adversely affect the validity or priority of any mortgages theretofore given to secure either a purchase money or improvement loan on any Lot and (b) no such amendment discriminates against an Owner without his approval.

After termination of the Declarant Control Period (but not prior thereto without Declarant's joinder), the covenants and restrictions of this Declaration may be amended at any time by an instrument signed by the Association and by members entitled to cast not less than two-thirds (2/3) of the votes of the Association's membership; provided only that (a) any such amendment does not adversely affect the validity or priority of any mortgages theretofore given to secure either a purchase money or improvement loan on any Lot, (b) no amendment shall be made in connection with the annexation provisions of Article VII without Declarant's prior written consent and (c) no such amendment discriminates against an Owner without his approval. Any amendment must be properly recorded in Kerr County, Texas.

Section 8.2. Revocation or Termination of Declaration. This Declaration may be revoked or terminated, but only by an instrument in writing, duly approved, executed and acknowledged by those Owners holding not less than eighty percent (80%) of the votes allocated by this Declaration and not less than one hundred percent (100%) vote of the First Mortgagees. Any such instrument of revocation or termination shall be duly filed of record in the County.

Section 8.3. Notice to First Mortgagees. The Association shall give all First Mortgagees fifteen (15) days' written notice to any proposed action which requires the consent of First Mortgagees pursuant to this Declaration.

Section 8.4. Enforcement. Enforcement of the provisions of this Declaration shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate them, or to recover damages, or to enforce any of these covenants; and failure by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 8.5. Severability. Invalidation of any one of the provisions of this Declaration by judgment or court order shall in no wise affect any other provision which shall remain in full force and effect.

Section 3.6. Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

Section 3.7. Notices. Any notice required to be given to any Owner or otherwise under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States mails, postage prepaid, addressed to the last known address of the person to whom it is addressed, as appears on the records of the Association at the time of such mailing.

Section 3.8. Successors and Assigns of Declarant. Any reference in this Declaration to Declarant shall include any successors or assigns of Declarant's rights and powers hereunder.

Section 3.9. Gender and Number. Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

Section 3.10. Usury. It is expressly stipulated that the terms of this Declaration and the Bylaws shall at all times comply with the usury laws of the State of Texas. If such laws are ever revised, repealed or judicially interpreted so as to render usurious any amount called for hereunder or under the Bylaws or contracted for, charged or received in connection with any amounts due hereunder or under the Bylaws, or if the Association's exercise of any provisions hereof or of the Bylaws results in any party having paid any interest in excess of that permitted by applicable law, then it is the Association's and/or the Declarant's express intent that all excess amounts theretofore collected by the Association be credited on the principal balance of any indebtedness (or, if the indebtedness has been paid in full, refunded to the payor), and the provisions of this Declaration and the Bylaws immediately be deemed reformed and the amounts thereafter collected be reduced, without the necessity of execution of any new document, so as to comply with then applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder.

FILED FOR RECORD
at 2:30 o'clock P.M.

AUG 27 2007

JANNETT PIEPER
Clerk County Court, Kerr County, Texas
Jannett Pieper
Deputy

HILL RIDGE HOMES, LTD, a Texas corporation

By: *Jack D. Hinton, II*
Jack D. Hinton, II, President

THE STATE OF TEXAS §

COUNTY OF KERR §

This instrument was acknowledged before me this 27th day of August, 2007, by JACK D. HINTON, II, President of HILL RIDGE HOMES, LTD., a Texas corporation, on behalf of said corporation.



Lorri Adams
Notary Public, State of Texas

✓ Filed by & Return to:
Dwaine Machann
Attorney at Law
222 Sidney Baker S, Ste 436
Kerrville, TX 78028

Provisione Agent which stated the sale, rental or use of the described prop-
erty because of color or race is invalid and unenforceable under Federal Law.
THE STATE OF TEXAS)
COUNTY OF KERR)
I hereby certify that this instrument was FILED in the File Number Sequence
on this date and at the time stamped herein by me and was ONLY RECORDED
in the Official Public Records of Kerr County, Texas on

AUG 28 2007



Janet Lipes
COUNTY CLERK, KERR COUNTY, TEXAS

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