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Return to:

THE SITTERLE CORPORATION
3520 N. FM 1604 East
San Antonio, Texas 78247

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

OF

EMERALD FOREST, PLANNED UNIT DEVELOPMENT,

BEXAR COUNTY, TEXAS

STATE OF TEXAS

COUNTY OF BEXAR

THIS DECLARATION, made on the date hereinafter set forth by
THE SITTERLE CORPORATION, hereinafter referred to as "Declarant".

WITNESSETH;

WHEREAS, Declarant is the owner of certain real property
(hereinafter sometimes referred to as the Property or
Properties), in San Antonio, Bexar County, Texas, which is more
particularly described as follows:

Lots 1 through 24, inclusive and Lot 26

Lots 150 through 202, inclusive

Lots 256 through 277, inclusive

ALL IN EMERALD FOREST P.U.D., UNIT NO. 1, a 40.893 acre
subdivision out of a 403.215 acre tract situated in the
George Voss Survey No. 340 1/2, Abstract 788, C.B.
4955, Juan Escamilla Survey No. 356 1/2, Abstract 218,
C.B. 4954, and the A. Houston Survey No. 341, Abstract
354, Recorded in Volume 9526, Pages 177 through 182,
Deed and Plat Records of Bexar County, Texas.

WHEREAS, Declarant desires to create thereon a residential
community with designated "Lots" and "Common Facilities" (as
those terms are defined herein) for the benefit of the present
and future owners of said Lots; and

WHEREAS, Declarant has subdivided the above-described real
property as shown by the map and plat of such subdivision, which
map and plat has heretofore been filed as the true and correct
survey, map, and plat thereof, and which subdivision shall be
effectively known as EMERALD FOREST, PLANNED UNIT DEVELOPMENT;

06-879-000 08300 052185 00021
and

WHEREAS, Declarant desires to ensure the preservation of the values and amenities in said community and for the maintenance of said Common Facilities, and to this end desires to further subject the above-described real property, together with such additions as may hereafter be made thereto as herein provided, to the covenants, restrictions, easements, charges, and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each of the owners thereof; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining and administering the Common Facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessment, charges and fees hereinafter created; and

WHEREAS, PLANNED UNIT DEVELOPMENT EMERALD FOREST HOMEOWNERS ASSOCIATION has been incorporated under the laws of the State of Texas as a non-profit corporation for the purposes of exercising the functions aforesaid and herein stated;

NOW, THEREFORE, Declarant states that the real property above-described, and such additions thereto as may hereafter be made pursuant to the terms hereof, is and shall be held, transferred, sold, conveyed, occupied, and enjoyed subject to the covenants, restrictions, easements, charges, and liens hereinafter set forth and adopted to run with the land.

If the parties hereto, or any part of them or their successors or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any person or persons owning any real property situated in said subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them from so doing or to recover damages or other dues for such violation.

ARTICLE I

DEFINITIONS

Section 1. The following words when used in this Declaration or any Supplemental Declaration shall have the following meanings:

(a) "Association" shall mean and refer to the PLANNED UNIT DEVELOPMENT EMERALD FOREST HOMEOWNERS ASSOCIATION , its successors and assigns as provided for herein.

(b) "Properties" shall mean and refer to the above described properties and additions thereto, as are subject to this Declaration or any Amended or Supplementary Declaration under the provisions of Article III Section 2 hereof.

(c) "Common Facilities" shall mean and refer to all property leased, owned, or maintained by the Association for the use and benefit of the members of the Association. By way of illustration, Common Facilities may include, but not necessarily be limited to, the following: private streets, signs, street medians, entry gates, guardhouse, tennis courts, swimming pool and other recreational facilities, buildings and landscaping, walls, entry monuments, bridges, trails, green belts, and other similar or appurtenant improvements.

(d) "Lot" shall mean and refer to each individually numbered plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Facilities.

(e) "Subdivision Plat" shall mean and refer to the map or plat of EMERALD FOREST, P.U.D. UNIT No. 1, filed for record in Volume 9526 , Pages 177 through 182, Deed and Plat Records of Bexar County, Texas.

(f) "Living Unit" shall mean and refer to a single family residence and its attached or detached garage situated upon a Lot. This includes zero lot line garden homes.

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

(h) "Member" shall mean and refer to all those Owners who

are members of the Association as provided in Article IV, Section 1, hereof.

(i) "Declarant" shall mean and refer to THE SITTERLE CORPORATION, and its successors or assigns in writing, provided any such writing shall reflect the intention to assign all or a portion of Declarant's rights.

(j) "Architectural Control Committee" shall mean, and refer to the committee created hereafter, subject to the provision of Article VII hereof, by the Declarant.

(k) "Board of Directors" shall mean and refer to the governing body of the Association, the election and procedures of which shall be as set forth in the Articles of Incorporation and By-Laws of the Association.

(l) "Improved Lot" shall mean and refer to a Lot on which construction of a Living Unit is completed, and the Living Unit is either occupied as a residence or closing of the sale of said Lot has taken place, whichever shall first occur.

(m) "Eligible Mortgage Holder" shall mean and refer to any entity that (i) holds a first and superior mortgage on any Living Unit and (ii) has registered its name, address, telephone number and person to contact with the Homeowners Association.

ARTICLE II

RESERVATIONS, EXCEPTIONS, DEDICATIONS, SIDEWALKS, ZONING CHANGES

Section 1. The Subdivision Plat dedicates for use as such, subject to the limitations set forth herein and therein, certain easements shown thereon, and such Subdivision Plat further establishes certain private streets, dedications, limitations, reservations and restrictions applicable to the Properties. All dedications, limitations, restrictions and reservations shown on the Subdivision Plat are incorporated herein and made a part hereof 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 said property or any part thereof. No such dedications shall be deemed or inferred to be public dedications except as

specifically therein or herein stated.

Section 2. Damages. Declarant and the Association shall not be liable for any damages done by any utility company or their assigns, their agents, employees or servants, using any easements, whether now or hereafter in existence, (located on, in, under or through the Properties) to fences, lawn, shrubbery, trees, or flowers or other property now or hereinafter situated on, in, under, or through the Properties.

Section 3. Maintenance and Access Easements. There is hereby created in favor of all easement owners, Declarant, the Association, and their assigns, a right of ingress or egress across, over, and under the Properties for the purpose of installing, replacing, repairing, and maintaining all facilities for utilities, including, but not limited to, water, sewer, telephone, electricity, gas, and appurtenances thereto, and to repair, correct, replace, or maintain any wall, fixture, light, or other structure or item constituting part of the Common Facilities or required or permitted to be maintained under the terms hereof or to correct or remove any condition prohibited under the terms hereof. Neither the Declarant, the Association nor any member of the Architectural Control Committee shall be liable for any damage done by any utility company or their assigns, agents, employees or servants, using any easements now or hereafter in existence, whether located on, in, under or through the Properties, to fences, shrubbery, trees or flowers or other property now or hereinafter situated on, in, under, or through the Properties. No provision hereof related to placement or nature of structures or conditions on a Lot, nor the approval thereof, express or implied, by the Declarant or the Committee shall affect the rights of easement owners nor enlarge the rights of Lot Owners with regard to the construction or maintenance of improvements or conditions within an easement area.

If certain Lots shall be designated Zero Lot Line (ZLL) Lots, there shall be on each side of each said ZLL Lot an eight (8) inch Masonry Wall and Lug Easement. Each owner shall install

rain gutters along the roof line of the ZLL side of his house in order to prevent a drainage problem on the adjacent lot.

There is also hereby established and imposed a five foot (5') Ingress-Egress and Maintenance Easement along the side of each Lot adjoining the ZLL side of a ZLL Lot for the purpose of maintenance and/or repair of the residence on the ZLL Lot.

Section 4. Drainage Easements. Easements for drainage throughout the subdivision are reserved as shown on the Subdivision Plat, such easements being depicted thereon as "drainage easements." No Owner of any Lot in the subdivision may perform or cause to be performed any act which would alter or change the course of such drainage easements in a manner that would divert, increase, accelerate or impede the natural flow of water over and across such easements. More specifically and without limitation, no Owner or resident of a Living Unit may:

(a) Alter, change or modify the existing natural vegetation of the drainage easements in a manner that changes the character of the original environment of such easements;

(b) Alter, change or modify the existing configuration of the drainage easements, or fill, excavate or terrace such easements, or remove trees or other vegetation therefrom without the prior written approval of the Architectural Control Committee;

(c) Construct, erect or install a fence or other structure of any type or nature within or upon such drainage easements that would change the course, divert, increase, accelerate or impede the natural flow of water over and across such easements; or

(d) Permit storage, either temporary or permanent, of any type upon or within such drainage easements; or

(e) Place, store or permit to accumulate trash, garbage, leaves, limbs or other debris within or upon the drainage easements, either on a temporary or permanent basis.

The failure of any Owner to comply with the provisions of this Article shall in no event be deemed or construed to impose liability of any nature on the members of the Architectural

Control Committee and/or Declarant, and such Committee and/or Declarant shall not be charged with any affirmative duty to police, control or enforce such provisions. The drainage easements provided for in this Article shall in no way affect any other recorded easement in the subdivision.

Section 5. Sidewalks. The Owner of any individual Lot or Lots shall construct or cause to be constructed, at his or their own expense, a three and one-half feet (3-1/2') wide concrete sidewalk, which shall be parallel and immediately adjacent to the street and which shall be of exposed aggregate finish. The design for the sidewalk shall be according to the plan for sidewalks which shall be approved by the Architectural Control Committee. The Owner or Owners of each Lot shall also be the Owner of the portion of the sidewalk which traverses his Lot, and shall, by acceptance of a deed to his Lot, each Owner shall be deemed to have granted an easement to the members and their invitees for the use of the sidewalks.

Section 6. Zoning Changes. No change in the zoning of the Properties will be applied for nor in any way be effective with respect to the Properties without the prior written approval of the Architectural Control Committee.

ARTICLE III

PROPERTY SUBJECT TO THIS DECLARATION;

ADDITIONS OR MODIFICATIONS THERETO; AMENDMENTS

Section 1. Existing Property. The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is all of that certain real property depicted on the Subdivision Plat for EMERALD FOREST, P.U.D. UNIT No. 1, recorded in Volume 9526, Pages 177 through 182 of the Deed and Plat Records of Bexar County, Texas, or any subsequently recorded replat of said subdivision, all of which real property is sometimes hereinafter referred to as the "Existing Property".

Section 2. Additions to Existing Property. Additional lands may become subject to this Declaration in the following manners:

(a) Additions by Declarant. For a period of 20 years from date of recording hereof, the Declarant, its successors and assigns, shall have the right to bring within the scheme of this Declaration and without the consent of members additional properties in future stages of the development and lying within the area described as follows:

Being a 328.944 Acre Tract out of a 403.215 Acre Tract situated in the George Voss Survey No. 340 1/2, Abstract 788, C.B. 4955, Juan Escamia Survey No. 356 1/2, Abstract 218, C.B. 4954, and the A. Houston Survey No. 341, Abstract 354, as described in instrument recorded in Volume 2402, Page 1325, Real Property Records, Bexar County, Texas;

provided that such additions compliment the existing subdivision plan both in design and value. Any additions authorized under this and the succeeding subsections shall be made by filing of record an Amended or Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the scheme of the covenants and restrictions of this Declaration to such property, and the execution thereof by the Declarant shall constitute all requisite evidence of the required approval thereof. Such Amended or Supplementary Declaration may contain such complimentary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be applicable to the additional lands and are consistent with the overall subdivision concept. In no event, however, shall any such Amended or Supplementary Declaration revoke, modify or add to the covenants established by this Declaration as they are applicable to the Existing Property.

(b) Other Additions. Upon the approval of the Association by a two-thirds (2/3) vote of each class of its members, any property not within the area above described may be added to the scheme of this Declaration and made subject to the jurisdiction of the Association upon the recording of Supplementary Declaration of Covenants and Restrictions. The owner of any such

property desiring such action shall submit such documents as the Association may require, including the following:

(1) The proposed property shall be described by size, location, proposed land use, and general nature of proposed private improvements;

(2) The proponent shall describe the nature and extent of Common Facilities to be located on the proposed property;

(3) The proponent shall state that the proposed additions, if made, will be subject to all Association assessments.

(c) Amendment. This Declaration may be amended until December 31, 2012, by written instrument executed by Owners of ninety percent (90%), or more, of the Lots and thereafter, by written instrument executed by Owners of seventy-five (75%), or more, of the Lots. No amendment shall be effective until approved and filed of record in the Official Public Records of Real Property, Bexar County, Texas. Notwithstanding the foregoing, Declarant shall have the right to file an amendment to this Declaration, without the necessity of joinder by any other Owner of Lots, or any interest therein, for the limited purposes of correcting a clerical error, clarifying an ambiguity, or removing any contradiction in the terms hereof.

In addition, material amendments to this Declaration must be approved by Eligible Mortgage Holders representing at least fifty-one percent (51%) of the votes of Living Units that are subject to mortgages held by Eligible Mortgage Holders. For the purpose hereof, the term "material amendments" shall be considered to include any amendment which changes:

- (1) Voting rights;
- (2) Assessments, assessment liens, or subordination of assessment liens;
- (3) Reserves for maintenance, repair and replacement of common areas;
- (4) Responsibility for maintenance and repairs;
- (5) Reallocation of interests in the general or

limited common areas, or rights to their use;

(6) Conversion of Lots or Living Units into common areas or vice versa;

(7) Expansion or contraction of the project, or the addition, annexation or withdrawal of property to or from the project;

(8) Insurance or fidelity bonds;

(9) Leasing of Living Units;

(10) Imposition of any restrictions on an Owner's right to sell or transfer his or her Living Unit;

(11) A decision by the Association to establish self management when professional management had been required previously by an Eligible Mortgage Holder;

(12) Restoration or repair of the project (after a hazard damage or partial condemnation) in a manner other than that specified in the documents; or

(13) Any provisions that expressly benefit mortgage holders, insurers or guarantors.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided interest in any Lot which is subject to the jurisdiction of and to assessment by the Association shall be a member of the Association, provided, however, that any person or entity holding an interest in any obligation, shall not be a member. Membership shall be appurtenant to and may not be separated from ownership of a Lot which is subject to assessment.

Section 2. Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all those Owners as defined in Section 1 with the exception of the Declarant or any builder entity designated by the Declarant. Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for membership. When more than one person

holds such interest or interests in any Lot, all such persons shall be members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

Class B. The Class B Member shall be the Declarant, or any builder entity as designated by the Declarant. The Class B Member shall be entitled to three votes for each Lot in which it holds the interest required by Section 1, until the happening of one of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(b) On December 31, 2012.

From and after the happening of these events, whichever occurs earlier, the Class B Member shall be deemed to be a Class A Member entitled to one vote for each Lot in which it holds the interest required for membership under Section 1; provided, however, that upon annexation of additional properties by Declarant as above provided, Class B memberships shall be reestablished for Declarant as to Lots owned by Declarant.

Notwithstanding anything to the contrary contained herein, the Declarant shall transfer control of the Association to the Owners no later than four (4) months after seventy-five percent (75%) of the Lots subject to the jurisdiction of the Association have been conveyed to Owners other than the Declarant, unless within such period Declarant has exercised its rights herein reserved to annex additional properties to this Declaration and the Association.

ARTICLE V

PROPERTY RIGHTS IN THE COMMON FACILITIES

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3 of this Article V, every member shall have a common right and easement of enjoyment in and to the Common Facilities and such right and easement shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Title to Common Facilities. The initial Common Facilities to be owned by the Association, free of lien, on conveyance of the first Lot by Declarant, is as follows:

Lot 131, EMERALD FOREST,

PLANNED UNIT DEVELOPMENT

The Declarant may retain legal title or leasehold to the remainder of the Common Facilities (if any) until such time as it has completed improvements thereon and until such time as, in the opinion of the Declarant, the Association is able to maintain the same, but notwithstanding any provision herein, the Declarant hereby covenants, for itself, its successors and assigns that it shall convey all Common Facilities to the Association, not later than December 31, 2004.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The rights and easements existing or hereafter created in favor of others as provided for in the Subdivision Plat and/or in Article II hereof.

(b) The rights of the Association, once it has obtained legal title to the Common Facilities, as provided in Section 2, above, to do the following:

(1) to borrow money for the purpose of constructing, maintaining or improving the Common Facilities and, in aid thereof, to mortgage said properties and facilities, in accordance with the Articles of Incorporation and By-laws of the Association;

(2) to take such steps as are reasonably necessary to protect the above described properties and facilities against foreclosure; and

(3) to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, and for any period not to exceed sixty (60) days for any infraction of the published rules and regulations; and

(4) to assess and collect the assessments as set

forth in Article VI, and to charge reasonable admission and other fees for the use of the Common Facilities; and

(5) to dedicate or transfer all or any part of the Common Facilities under its ownership to any public agency, authority, or utility for such purposes and subject to such conditions as may be approved by a two-thirds (2/3) vote of the members.

Section 4. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE VI

COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned by it within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Association: (1) monthly assessment charges and (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The monthly and special assessments, together with such interest thereon and costs of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the owner of such property at the time the obligation accrued. The personal obligation for delinquent assessment shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, security, convenience

and welfare of the members, and in particular, for the improvement, maintenance and operation of the Properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Properties by the members. For the convenience of Lot Owners, the Association will collect and disburse municipal charges and such other fees essential to the health and safety of residents. These fees may include, but not be limited to; fire protection, refuse collection and street lighting. Pro-rated shares of these expenses will be collected with assessments. The Association shall maintain the Common Facilities and all limited common areas, if any.

Section 3. Basis and Maximum of Annual Assessments. The annual assessment for both improved and unimproved Lots shall be due and payable in advance quarter-annually, or otherwise as determined by the Board of Directors in the manner provided for herein after determination of current maintenance costs and anticipated needs of the Association during the year for which the assessment is being made, but until December 31, 1993, the assessment for improved Lots shall not exceed \$47.00 per month. The annual assessment for unimproved Lots shall be one-fourth (1/4) the annual assessment for improved Lots. On and after December 31, 1993, the maximum annual assessment for improved Lots and maximum annual assessment for unimproved Lots may be increased by ten percent (10%) by the Board of Directors without the vote of the members as provided in Article VI, Section 5 hereof. The Board of Directors may fix the annual assessment at any amount not in excess of maximum set by membership vote.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments provided for in Section 3, the Association may levy, in any assessment year, a Special Assessment on improved Lots only, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement on or which is part of the Common Facilities, provided that any such assessment shall have the assent of

two-thirds (2/3) of the votes of each improved Lot Owner who is voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Improved Lot Owners at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 5. Change in Basis and Maximum of Annual Assessments. Subject to the limitations of Section 3 hereof, and for the periods therein specified, the Association may change the maximum assessments fixed by Section 3 hereof for any period provided that any such change shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 6. Quorum for Any Action Authorized Under Sections 4 and 5. The quorum required for any action authorized by Sections 4 and 5 hereof shall be as follows.

At the first meeting called, as provided in Sections 4 and 5 hereof, the presence at the meeting of members, or of proxies, entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirements set forth in Section 4 and 5, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that such reduced quorum requirement shall not be applicable to any such subsequent meeting held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence on such date as the Board of Directors may determine, and, in any event, on or before conveyance of a Lot by Declarant, and shall be due and payable quarterly on the first day of January, April, July and October of each year. The first quarter annual

installment of the annual assessments for the calendar year 1993 shall be due and payable on October 1, 1993, unless otherwise determined by the Board. The Board of Directors shall fix the amount of the annual assessment at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. When a Lot becomes an improved Lot after the annual assessment for it as an unimproved Lot has been paid, there shall be payable as of the first day of the month following the date it becomes an improved Lot, a sum equal to the difference between the annual assessment for unimproved Lots and the annual assessment for improved Lots pro-rated over the balance of the quarter remaining. The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Section 8. Effect of Non-Payment of Assessments; The Lien; Remedies of the Association. If the assessments are not paid on the date when due (being the dates specified in Section 7 hereof) then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of fifteen percent (15%) per annum, plus a \$25.00 administrative/collection fee, and the Association may bring an action at law against the Owner to collect the same and/or to foreclose its lien against the Lot, and there shall be added to the amount of such assessment all reasonable expenses of collection including the costs of preparing and filing the complaint, reasonable attorney's fees and costs of suit. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien for the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of any first mortgage or any proceeding or conveyance in lieu thereof shall extinguish the lien of such assessments as to payments which became 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.

Section 10. Working Capital Fund. In order to provide for unforeseen expenditures, or to purchase any additional equipment or services, the Association shall establish a working capital fund equal to two (2) months' estimated monthly assessment charges for each improved Lot. Any such amounts paid into the working capital fund shall be in addition to the regular monthly assessment charges and shall not be considered as advance payments of regular assessments. Each Owner's share of the working capital fund shall be collected at the time of closing of the sale of each improved Lot. All such funds shall be transferred to the Association for deposit into a segregated account. Within sixty (60) days after the closing of the sale of the first improved Lot, the Declarant shall pay each unsold Living Unit's share of the working capital fund to the Association. Thereafter, upon the closing of each subsequent improved Lot, the Declarant shall be reimbursed from the funds collected at the closing of each improved Lot sale.

ARTICLE VII

ARCHITECTURAL CONTROL COMMITTEE

Section 1. Purpose. In that EMERALD FOREST, PLANNED UNIT DEVELOPMENT is designed as a single family residential community, the Declarant has established an Architectural Control Committee for the purposes of (1) preventing unusual, radical, uncommon, bizarre, or incompatible home designs, (2) maintaining a harmony of external design, and (3) to establish standards of home con-

struction, location, and compatibility. The Architectural Control Committee is sometimes hereinafter referred to as the "Committee".

Section 2. Committee Members. The Committee shall be comprised of at least three members, who shall be appointed by the Declarant so long as Declarant owns any Lot. The initial committee members shall be Daniel S. Sitterle, 3520 N. Loop 1604 East, San Antonio; Mona Hardwick, 3520 N. Loop 1604 East, San Antonio; Richard Markee, 3520 N. Loop 1604 East, San Antonio; Bill Cox, 13333 Blanco Road, Suite #204, San Antonio; and John Finch, 13457 Blanco Road, San Antonio, any three of whom are authorized to approve plans or grant variances. The Declarant may, from time to time, at its sole discretion, appoint additional members or change existing committee members. In the event a vacancy occurs and the Declarant fails to fill such vacancy within thirty (30) days by appointment of a member, the Board of Directors of the PLANNED UNIT DEVELOPMENT EMERALD FOREST HOMEOWNERS ASSOCIATION may fill such vacancy by appointing an Owner of its choice; providing however, it shall first give thirty (30) days written notice to Declarant of its intent to do so and the Declarant fails to make said appointment during said thirty (30) day period. At such time as control of the Association has transitioned from Declarant to Owners, the right of removal and appointment of members to the Committee shall vest in the Board of Directors of the Association.

Section 3. Approvals. The Committee shall be the sole authority for determining whether proposed structures (or modifications/additions thereto) comply with applicable covenants and restrictions, and are in harmony of external design with existing structures within the Properties, and is in keeping with the overall plan for the development of the Properties. On all matters before the Committee, majority vote shall constitute approval. Said approvals shall be in writing.

The Committee may impose special architectural requirements as to the improvements to be constructed on all or any of Lots 1

through 4, Block 1 and Lot 54, Block 3. Prospective purchasers and Owners of each of these lots are cautioned to contact the Committee regarding any special requirements prior to signing any contract for construction of improvements and prior to approving any final plans for construction.

The Committee may impose Architectural-Design Guidelines for the subdivision which may create additional obligations and requirements for the construction of improvements on the Lots. Each Owner, prospective Owner and builder is advised to obtain a copy of any Architectural-Design Guidelines from Declarant's offices before finalizing construction plans. There shall be no review of any action of the Committee, except by procedures for injunctive relief when such action is patently arbitrary and capricious; and under no circumstances shall the Committee or its members, collectively or individually, be subject to suit by any entity for damages.

Section 4. Termination of Committee. The powers and duties of the Committee and of its designated representative(s), as well as the requirements of this Covenant pertaining thereto shall cease on or after December 31, 2012; provided, however, the powers of the Committee may be extended beyond said date upon filing of a duly recorded instrument electing such extension and signed by a majority of the Lot Owners then of record.

Section 5. Entitlements. No Committee Member or a representative designated by said Committee shall be entitled to any compensation for services performed pursuant to this Covenant, other than reasonable out-of-pocket expenses.

Section 6. Other Matters. All matters requiring approval of the Architectural Control Committee whether or not specifically addressed herein shall require that such approval be in writing; however, in the event the Committee fails to approve or disapprove any of such matters within thirty (30) days after written submission thereof to the Committee, approval will not be required, and the requirement that such approval be obtained shall be deemed to have been fully complied with.

ARTICLE VIII

DESIGN APPROVAL, CONSTRUCTION AND USE COVENANTS

Section 1. Design Approval Requirements. No building, structure, fence, wall, landscaping, recreational facilities of any kind, or other improvement shall be commenced, erected or maintained upon the Properties; nor shall any exterior addition to or change or alteration thereto be made, including exterior painting or color changes, until the detailed plans and specifications therefore shall have been submitted to the Architectural Control Committee and said Committee has approved in writing its compliance with minimum standards in relation to property liens, easements, grades, surrounding structures, walks, topography and all other matters related thereto. The submitted plans and specifications shall specify, in such form as the Committee may reasonably require, materials, elevations, landscaping detail, and the nature, kind, shape, heights, exterior color scheme, and location of the proposed improvements or alterations thereto. In the event said Architectural Control Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the plans and specifications have been submitted to it, approval will not be required and the provisions of this Section will be deemed to have been fully complied with. The Committee is not required to police or enforce compliance with such considerations as minimum size, setbacks, or other specific, objective construction requirements.

Section 2.0 Property Use.

Section 2.1. Use Restrictions. The Properties shall be used only for the development of single family detached homes, including detached garden homes, all of which are to be used exclusively as private single family residences, and common facilities serving the owners and residents thereof. The terms "residential purposes" as used herein shall be held and construed to exclude any business, commercial, industrial, apartment house, hospital, clinic and/or professional uses, and such excluded uses

are hereby expressly prohibited. This restriction shall not, however, prevent the inclusion of permanent living quarters for domestic servants or to allow domestic servants to be domiciled with an owner or resident.

Section 2.2. Lot Consolidation. Any Owner owning two or more adjoining Lots, or portions of two or more such Lots, may with the prior approval of the Architectural Control Committee, consolidate such Lots or portions thereof into a single building site for the purpose of constructing one residence and such other improvements as are permitted herein, provided, however, that no such combined building site shall contain less than nine thousand (9,000) square feet of land. Any consolidated Lot shall comply with all lawful requirements of any applicable statute, ordinance or regulation. On application by an Owner, the Board of Directors may adjust the assessments on a consolidated Lot to an amount not less than the full assessment rate for a single Lot. Absent such adjustment, a consolidated Lot shall bear the full assessment rate theretofore applicable to all Lots which are consolidated.

Section 2.3. Signs. No signs, banners, or pennants of any kind shall be displayed to the public view on any single-family residential Lot except one (1) professional sign of not more than nine (9) square feet advertising the property for sale or rent. Signs used by the developer or builders to advertise Lots or homes within the Properties during the construction and sales period shall be permitted, irrespective of the foregoing. Signs advertising subcontractors or suppliers are specifically prohibited. The sign may state only the name and phone number of the seller and/or the seller's agent. The Architectural Control Committee shall have control over all the wording, design, appearance, size, quantity, and location of all signs. Except for sale or rental signs adhering to the standards of the first sentence of this Article, all signs within the Properties shall be subject to the prior written approval of the Architectural Control Committee.

Section 2.4. Animals and Pets. No poultry, livestock, snakes, or other animals of any kind shall ever be raised, kept, bred, or harbored on any portion of the Properties, except that dogs, cats, or other common household pets (not including any swine and not to exceed a total of three (3) adult animals) may be kept, provided that they are not kept, bred, or maintained for any commercial purposes and provided further that such common household pets shall at all times, except when they are confined within the boundaries of a private single-family residence or Lot upon which same is located, be restrained or controlled by a leash, rope, or similar restraint or a basket, cage, or other container. An adult animal is defined, for the purposes of this section, as any animal older than six months.

Section 2.5. Accumulation of Trash and Rubbish. Except as provided in Section 2.10 of this Article, no trash, rubbish, garbage, manure, putrescible matter or debris of any kind shall be dumped or permitted to accumulate on any portion of the Properties. All rubbish, trash, or garbage shall be kept in sanitary refuse containers with tightly fitting lids, and, except as necessary for purposes of affecting garbage pickup, said containers shall be kept in an area of the Lot adequately screened by planting or fencing.

Reasonable amounts of construction materials and equipment may be stored upon a Lot or the Common Facilities by the Owner thereof for reasonable periods of time during the construction of improvements thereon.

Section 2.6. Vehicles. No trailer, motor home, tent, boat, recreational vehicle, travel trailer, any truck larger than a three-quarter (3/4) ton pick-up, or wrecked, junked or wholly inoperable vehicle shall be kept, parked, stored, or maintained on any portion of the front yard in front of the building line of the permanent structure nor shall be kept, parked, stored or maintained on any other portions of a Lot or street for a period of more than twenty-four (24) hours unless it is in an approved enclosed structure or in an approved screened area which prevents

the view thereof from adjacent Lots and streets. No dismantling or assembling of an auto, trailer, motor home, tent, boat, recreational vehicle, travel trailer, any truck or other machinery or equipment shall be permitted in any street, driveway or yard adjacent to a street.

Section 2.7. No Extraction of Natural Resources. No oil or natural gas drilling, oil or natural gas development or oil refining or quarrying, or mining operations of any kind shall be permitted upon any portion of the Properties, nor shall oil, natural gas, or water wells, tanks, tunnels, mineral excavations or shafts be permitted upon, in or within any portion of the Properties. No derricks or other structures for use in the boring or drilling for oil, natural gas, minerals or water shall be erected, maintained or permitted upon, in or within any portion of the Properties.

Section 2.8. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

No Owner or occupant shall perform any work that will impair the structural soundness or integrity of another Living Unit or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other Living Units or their Owners or residents.

No exterior lighting of any sort shall be installed or maintained on a Lot where the light source is offensive or a nuisance to neighboring property (except reasonable security or landscape lighting that has approval of the Architectural Control Committee).

No exterior speakers, horns, whistles, bells or other sound devices (except security devices such as entry door and patio intercoms used exclusively to protect the Lot and improvements situated thereon) shall be placed or used upon any Lot.

The discharge of any firearm, including BB guns and pellet guns, and the hunting or killing of any animal within any part of

EMERALD FOREST PLANNED UNIT DEVELOPMENT is prohibited. Additionally, there is prohibited within the subdivision and on any adjacent land owned in whole or in part by Declarant the use of any bow and arrow, slingshot, or other launching or catapulting device except strictly within the confines of an individual Owner's Lot.

Section 2.9. Landscaping, Etc. All landscaping, mailboxes, sidewalks, driveways, lighting or other improvements on any Lot which are not concealed from view from every other Lot, other portions of the Properties, and from any street must be harmonious and in keeping with the overall character and aesthetics of the Properties. To this end, the plans therefore shall be submitted to the Architectural Control Committee for its approval, or disapproval prior to the construction, alteration and/or placement of such items.

Section 2.10. Necessary Temporary Facilities. Notwithstanding the other provision of this Article VIII, Declarant reserves unto itself the exclusive right to erect, place, and maintain temporary facilities in or upon any portions of the Properties as Declarant, in its sole discretion, may determine to be necessary. In addition, each Lot Owner shall have the right to erect, place, and maintain on his Lot such temporary facilities as may be necessary or convenient for the construction or modification of a residence thereon, provided that such right shall in no event extend beyond six months after start of construction or a renovation project.

Section 2.11 No Cesspools. No privy, cesspool, or septic tank shall be placed or maintained upon any portion of the Properties. Portable toilets of a commercial character may be inconspicuously located during period of construction for the convenience of the workers performing such works. However, the security guardhouse shall be served by a septic system until such time as the PLANNED UNIT DEVELOPMENT EMERALD FOREST HOMEOWNERS ASSOCIATION elects to convert to an existing sewerage system for the guardhouse.

Section 2.12 Exposed Antennas and Athletic Equipment

Section 2.12.1 Exterior Antennas. No exterior antenna shall be permitted on any dwelling or Lot. This prohibition shall include any derricks or antennas of any nature mounted on, in, or around the dwelling or the Lot upon which the dwelling rests.

Section 2.12.2 Athletic and Sports Equipment. No basketball backboard, goal, posts, net standards, etc., shall be affixed to the front or side of any Living Unit or placed on any Lot where visible from the street in front of the dwelling nor may they be placed on the Lot between the dwelling and the street.

Section 2.12.3 Satellite Dishes. No satellite radio or television discs or dishes or similar signal receiving devices employed for the purpose of collection and magnifying radio-electronic waves from space satellite facilities which emanate or reflect television or radio programming shall be permitted on any Lot except with the advance written permission of the Architectural Control Committee and the adequate screening thereof from view. Each application for permission to the Architectural Control Committee shall include a detailed plan depicting pertinent dimensions of the device, its proposed location and the owner's plan for screening the device from view. Provisions of Section 3.14 of this Article VIII shall apply.

Section 2.13. Maintenance of Yards, Etc. The Owners of all Lots shall at all times keep weeds, shrubbery and trees thereon cut in a sanitary, healthful, and attractive manner; provided, however, that no tree measuring four inches (4) or more in diameter, measured twelve inches (12) above the ground, shall be removed or cut without the written approval of the Architectural Control Committee. Lot Owners shall also be required to provide and allow safe and adequate drainage within and across their Lot to include appropriate and adequate provisions when building, maintaining or constructing fences, walks, landscaping, swimming

pools, decks, patio additions or extensions or any other potential obstruction which would divert, impede, or cause to back up run off water.

The drying of clothes in public view from streets, and storage of firewood and yard equipment or other equipment in public view from streets is likewise prohibited. Each Owner or occupant of a Lot with a rear yard visible from a street desiring to dry clothing outside, or to store firewood, yard equipment, or other equipment outside shall construct and maintain a form of enclosure approved by the Architectural Control Committee suitable to screen such activity and storage from view from streets. Until a Living Unit is built on a Lot, Declarant may, at its option, have the grass, weeds and vegetation cut when and as often as the same is necessary in its judgement, and have dead trees, shrubs and plants removed therefrom. Declarant may also, at its option, remove any excess building materials or building refuse situated on a Lot in violation of this covenant.

In the event of default on the part of the Owner or occupant of any Lot in observing the above requirements, or any of them, such default continuing after ten (10) days written notice thereof, Declarant, the Association, or their agents may enter upon said Lot without liability to the Owner or any occupants, in trespass or otherwise, and take such action as may be reasonably necessary to correct such defect or cure such default to secure compliance with this Declaration and/or place said Lot in a more neat, attractive, healthful and sanitary condition. In such event, the Owner or occupant of such Lot shall be subject to a reasonable administrative charge, actual costs of any work performed, and reasonable attorney's fees. The Owner or occupant, as the case may be, agrees by the purchase or occupation of the Lot to pay such statement and charges immediately upon receipt thereof. The sum due shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such sums are due, and may be enforced in accordance with the other provisions of this Declaration.

Section 2.14. Fences. All fences shall be constructed of either masonry, wood, metal (of the type approved by the Architectural Control Committee) or a combination of any of the above materials. Wood fencing shall be vertical, six feet (6') in height, and of either 1" x 4" or 1" x 6" boards. Such boards shall be installed with the smooth side facing away from the Lot on which they are installed, unless an alternate design is approved by the Committee. Any fence, wall, or hedge built forward of the front wall line of the respective house must be approved by the Architectural Control Committee. No chain link fencing or fencing exceeding six feet (6') in height will be installed unless specifically approved by the Architectural Control Committee.

Section 2.15: House Numbering: House numbers identifying the address of each house must be placed as close as possible to the front entry and shall be illuminated so that the numbers can be easily read from the street at night. Size, color and material of the numbers must be compatible with the design and color of the house.

Section 3.0 Construction Covenants

Section 3.1 New Construction Only. Any and all structures, fences, walls, recreational facilities or other improvements erected, altered or placed on any portion of the Properties shall be of new construction and shall be built in place, and except as provided in Section 2.10 of this Article, no structure of a temporary character, including, but not limited to trailers, mobile homes, tents, shacks, garages, barns, or other out-buildings shall be used anywhere on, in, or within the Properties at any time, except as specifically provided for herein.

Section 3.2. Dwelling Cost, Quality and Size. No dwelling shall be permitted on any Lot in these subdivisions having a market value of less than \$125,000.00 based upon market values prevailing on the date these Covenants are recorded. Except for R-1A Garden/Patio Homes with a Zero Lot Line (ZLL), each single

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story or one and one-half (1-1/2) story Living Unit shall contain not less than 2200 contiguous square feet of living area, and each two story or two and one-half (2 1/2) story Living Unit shall contain not less than 2400 contiguous square feet of living area, such areas to be exclusive of open or screened porches, terraces, patios, driveways, carports, garages and living quarters for domestic servants separated or detached from the primary living area. (See Section 3.13 for garage requirements.) R-1A Garden/Patio Homes with a Zero Lot Line (ZLL) shall not be less than 1400 contiguous square feet of living area.

Section 3.3. Maximum Height. No building or structure erected, altered or placed on, within or in the Properties shall exceed thirty-five (35') in height (measured from the top of the foundation to the utmost part of the roof) nor be more than two and one-half (2 1/2) stories in height without the written consent of the Architectural Control Committee; provided, however, that all applicable ordinances, regulations, and statutes with respect to the maximum height or building and structures shall, at all times, be complied with.

Section 3.4. Fire Walls. Regardless of any approvals granted to the contrary, any building or other structure located on a Lot line must be provided with a suitable rated fire wall as required by all applicable codes, ordinances, regulations and/or statutes, including, but not limited to, the codes and ordinances of the City of San Antonio, Texas.

Section 3.5 Placement of Structures on Lots. Subject to more stringent requirements hereinafter set forth, no building or other structure shall be located on any Lot nearer to the front Lot line nor nearer to the side street line than the minimum setback lines shown on the recorded subdivision plat without approval from the Architectural Control Committee. For the purpose of this covenant, eaves, steps, and open porches shall not be considered as part of a building; provided, however, this shall not be construed to permit any portion of a building to

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encroach upon another Lot, except for R-1A Garden/Patio Home Zero Lot Line (ZLL) Lots, (see Section 3.5.2.).

Section 3.5.1. Single Family Detached Residential Lots. No building shall be located on any single family detached residential Lot nearer than twenty (20) feet to the front Lot line or further back than forty-five (45) feet from the front Lot line, or nearer than five (5) feet to an interior Lot line, except a detached garage or outbuilding, the front of which is not more than fifty (50) feet from the rear Lot line, may be erected no nearer than three (3) feet to the side Lot line. No dwelling shall be located on any Lot nearer than fifteen (15) feet to the rear Lot line except dwellings on Lots facing cul-de-sacs, elbow corners, or on other unusually shaped Lots, found to be such by said Committee, for which the setback shall be at least ten (10) feet from the rear Lot line. Side loading garages shall be set back from the nearest side Lot line by not less than seventeen feet (17') measured along the center axis of the driveway. [Every outbuilding except a greenhouse shall correspond in style and architecture to the dwelling on which it is appurtenant, and shall be of the same exterior materials, both walls and roof. No outbuilding shall exceed the height or number of stories of the dwelling to which it is appurtenant.]

Section 3.5.2. R-1A Garden/Patio Home - Zero Lot Line (ZLL) Lots. No building shall be located on any ZLL Lot nearer than ten (10) feet to those lot lines not designated as the Lot's zero lot line. Garages, either separate or attached shall be so located on each Lot to have a minimum of seventeen (17) feet of driveway, measured along its centerline, between the garage door and the Lot line across which the driveway extends to the street or alley. The side setback may be set at zero feet (0) to an interior side Lot line; so long as no other exterior wall of a building built on such Lot is located nearer than ten (10) feet from the exterior wall of any and all adjacent buildings or other structures to which it is not attached.

Section 3.6. Masonry. For all purposes of these

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Restrictive Covenants, masonry includes stucco and all materials found by the Committee to be commonly referred to as masonry in the San Antonio, Texas, building industry. A minimum of seventy-five percent (75%) of the first floor wall area measured to the top of the first floor window height and exclusive of openings shall be of masonry or masonry veneer construction. Those portions of the chimneys exposed to the elements, being all exterior portions of the chimneys, shall be one hundred percent (100%) masonry. The Committee may waive or vary the foregoing masonry percentage requirement for split-level or multi-level construction, and be deemed to have done so when the plans and specifications so indicate and are approved by the Committee as submitted without conditions attached.

The builder of each residence and building shall, to the extent possible, minimize the amount of exposed foundation below the brick lug, and in any event, no more than 20 inches of the foundation along the front of the residence and along the front one-half of the sides of the residence shall be exposed to view from any street. No more than 36 inches of the foundation along the rear and along the rear one-half of the sides of the residence shall be exposed to view.

Notwithstanding the requirements of this Section, and in addition to variance power granted to the Architectural Control Committee hereinafter, the Committee is empowered to waive one or more requirements of this Section if in its sole discretion, such waiver is advisable in order to accommodate a unique or advanced building concept, design, or material, and in the opinion of the Committee, the resulting structure or appearance will not detract from the general appearance of the neighborhood.

Section 3.7. Roofing. The surface of all roofs of principal and secondary structures including garages and domestic living quarters shall be composed of ceramic or concrete tile, metal (battened seams), textured composition shingle (240 pound minimum) or such material as approved by the Architectural Control Committee.

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Section 3.8. Windows and Glass. Windows shall be wood or painted metal windows in a color approved by the Architectural Control Committee. All glass in exterior windows shall be of a color and type approved by the Architectural Control Committee.

Section 3.9. Insulation. All ceilings, except garages, shall have no less than R-19 rated batt insulation or comparable rated insulation. All exterior walls, except garages, shall have no less than R-11 rated batt insulation or comparably rated insulation.

Section 3.10. Siding. Subject to the limitations imposed by Section 3.6 above, wood siding may be used. All other siding materials, and all siding colors, must be approved by the Architectural Control Committee.

Section 3.11. Exterior Lighting. All exterior lights and light fixtures of each residence must be approved by the Architectural Control Committee. No exterior lighting shall be erected or maintained in such a manner as to unduly interfere with or affect the enjoyment of adjoining property.

Section 3.12. Driveways and Front Yards. All driveways shall be exposed aggregate finished concrete unless otherwise approved by the Architectural Control Committee. The front yard area between the lot line adjacent to the "fronting" street and the front of the main structure, shall have no more than ten percent (10%) concrete (excluding driveways) without the written approval of the Architectural Control Committee.

Section 3.13. Garage Requirement. Each Living Unit shall at all times maintain an enclosed garage suitable for parking at least two (2) standard size automobiles, which conforms in design and materials with the main structure. Garages may be separate units or attached to the main structure. No garage shall be enclosed or converted to another use unless and until a garage meeting the requirements of this section shall have been completed on the same building site.

Section 3.14. Variances. The approval of the Architectural Control Committee granted from time to time under terms of this

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Declaration for variances or waivers to this Declaration or as special permission for otherwise non-permitted facilities, shall be on a case-by-case basis, and the granting in any one or more cases shall not be deemed to establish a precedent for granting subsequent approvals on what may seem to be a similar situation. All decisions of the Architectural Control Committee shall be considered final.

ARTICLE IX

EDWARDS RECHARGE ZONE

Section 1. Enforcement. EMERALD FOREST, PLANNED UNIT DEVELOPMENT is classified by the State of Texas as being on the Edwards Recharge Zone, and the development is covered by the provisions of Texas Water Quality Board Order No. 75-0128-20-(4) dated September 23, 1975. The requirements of this order and any subsequent amendments or deletions are herewith made a part of these Restrictions to run with the land so long as the State of Texas may impose these requirements through the Texas Water Quality Board or such other agency to which the State of Texas may designate authority.

By acceptance of a deed to a Lot, or initiating construction of a residence or improvements to a Lot, each Builder Member and contractor assumes responsibility for complying with all certifications, permitting, reporting, construction, and procedures required under all applicable governmental rules, regulations, and permits, including, but not limited to those promulgated or issued by the Environmental Protection Agency and related to Storm Water Discharges from Construction Sites (see Federal Register, Volume 57, No. 175, Pages 41176 et seq.), and with the responsibility of ascertaining and complying with all regulations, rules, rulings, and determinations of the Texas Water Development Board and Texas Water Commission, related to each Lot, including, without limitation, the provisions of chapters 325 and 331, Texas Administrative Code, and any specific rulings made pursuant to the terms thereof. The foregoing references are made for the benefit of builders and contractors

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and do not in any way limit the terms and requirements of this covenant and the requirement that all Builder Members and contractors comply with all governmental regulations, and any plan required by such regulations such as a Storm Water Pollution Plan, affecting each Lot and construction site with which they are associated, including delivery to Declarant of a certification of understanding relating to any applicable NPDES permit prior to the start of construction. Each Builder Member and contractor, by acceptance of a deed to a Lot or undertaking the making of improvements to a Lot, holds harmless and indemnifies Declarant cost, loss, or damage occasioned by the failure to abide by any applicable governmental statute, rule, regulation or permit related to the Properties.

Section 2. Specification Provisions. Specific provisions applicable to all future property owner's are noted as follows:

(a) Septic tanks are prohibited; however, the security guardhouse shall be served by a septic system until the PLANNED UNIT DEVELOPMENT EMERALD FOREST HOMEOWNERS ASSOCIATION elects to convert to an existing sewerage system.

(b) All developed Lots shall be provided with a minimum of six (6) inches of soil for turf or lawn areas.

(c) A street-sweeping program is to be maintained so long as required by the State of Texas or until the area is annexed by the City of San Antonio. For reasons of perpetuity this function is assigned to the Homeowners Association.

(d) Highly soluble nitrate fertilizers will not be used. All property owners are duly cautioned as to use of lawn fertilizers.

(e) No underground storage of hydrocarbon products, chemicals, or other industrial liquids and/or liquid wastes other than sanitary sewage shall be permitted.

(f) No right-of-way easements for transporting liquid petroleum will be permitted.

(g) No final disposal of solid waste in the subdivision will be permitted.

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(h) Existing wells, except monitoring wells, shall be plugged, as required, upon abandonment within thirty (30) days.

(i) The U.S.G.S. carries out the functions of monitoring surface runoff. The records are available as required by the T.W.Q.B. Order.

ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement. Except for matters related to the Architectural Control Committee as previously described, if the Owner of any Lot, or its heirs, executors, successors, assigns or tenants, shall violate or attempt to violate any of the restrictions or covenants set forth in this Declaration or any supplemental or amended Declarations, it shall be lawful for the Association, Declarant, or any Owner to prosecute any proceedings against the person or persons violating or attempting to violate any such restrictions and covenants. The failure of any Owner or tenant to comply with any restriction or covenant will result in irreparable damage to Declarant and other Owners of Lots in the Subdivision; thus the breach of any provision of this Declaration may not only give rise to an action for damages at law, but also may be made the subject of an action for injunctive relief and/or specific performance in equity in any court of competent jurisdiction. In the event enforcement actions are instituted and the enforcing party recovers, then in addition to the remedies specified above, court costs and reasonable attorney's fees shall be assessed against the violator.

Section 2. Severability. Invalidity of any one of these covenants or restrictions by judgement or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Duration. This Declaration shall remain in force and effect until December 31, 2012, at which time, and each tenth anniversary thereafter, this Declaration shall be renewed for a period of ten years unless seventy-five percent (75%) of the Owners of Lots shall file a written agreement to abandon

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same.

Section 4. Availability of Project Documents. Copies of the Declaration, Bylaws, Articles of Incorporation and other rules concerning the Association, and the books, records and financial statements of the Association shall be available for inspection by Owners and by the holders, insurers and guarantors of first mortgages that are secured by Living Units at the principal office of the Association located at 3520 North FM 1604 East, San Antonio, Texas, during normal business hours.

In addition, the Association shall provide a statement for any preceding fiscal year if the holder, insurer or guarantor of any first mortgage that is secured by a Living Unit submits a written request for same.

Section 5. Termination of Legal Status of the Project. The Eligible Mortgage Holders representing at least sixty-seven percent (67%) of the mortgaged Living Units must approve the termination of the legal status of the project for reasons other than substantial destruction or condemnation of the Properties.

Section 6. Management Contracts. The Declarant shall have the right to enter into any and all professional management contracts prior to the date that control of the project is transferred to the Association, so long as such contracts do not exceed one year in duration. Such contracts shall provide to the Association a right to terminate, without cause, any time after the transfer of control without payment of any penalty or advance notice of more than thirty (30) days.

Section 7. Leasing Requirements. Any lease or rental agreement concerning the leasing of a Living Unit must be in writing and shall be subject to the requirements of this Declaration, the Bylaws and any other document promulgated by the Association. No Living Unit, Lot, or portion thereof shall be leased or rented for less than thirty (30) days.

Section 8. Rights of Mortgage Holders, Insurers or Guarantors. The holder, insurer or guarantor of the mortgage on any Living Unit shall be entitled to timely written notice of:

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(a) Any sixty (60) day delinquency in the payment of assessments or charges owed by the owner of any Living Unit on which it holds the mortgage;

(b) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

(c) Any proposed action that requires the consent of a specified percentage of Eligible Mortgage Holders.

To obtain this information, the mortgage holder, insurer or guarantor should send a written request to the Association, stating both its name and address and the unit number or address of the Living Unit on which it holds the mortgage. The responsibility of the Association to notify or seek approvals from any holder, insurer or guarantor of a mortgage on any Living Unit is expressly contingent upon any such mortgage holder, insurer or guarantor having registered its name, address, telephone number, person to contact and type and extent of its interest in the Living Unit with the Association.

Section 9. As long as there is a Class B Membership, the following actions will require the prior approval of the Veterans Administration:

(a) Annexation of additional properties.

(b) Dedication of common areas.

(c) Amendment of the Declaration of Covenants, Conditions and Restrictions.

ARTICLE XI

INSURANCE

The Association shall obtain and continue in effect comprehensive public liability insurance insuring the Association, the Declarant and the agents and employees of each and the Owners and respective family members, guests and invitees of the Owners against any liability incident to the ownership or use of the Common Facilities, commercial spaces, if any, and public ways, and including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured,

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and a "severability of interest" endorsement precluding the insurer from denying coverage to one Owner because of the negligence of other Owners or the Association. The scope of the coverage must include all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use. Coverage shall be in the amount not less than One Million Dollars (\$1,000,000.00) per occurrence, for personal injury and/or property damage. The Association shall at the discretion of the Board of Directors purchase director's liability and errors and omissions insurance, and the Association shall purchase fidelity coverage against dishonest acts by any directors, managers, trustees, employees or volunteers of the Association who are responsible for handling funds belonging to or administered by the Association. The fidelity bond insurance shall name the Association as the insured and shall provide coverage in an amount not less than one and one-half (1-1/2) times the Association's estimated annual operating expenses and reserves. In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers. The insurance policies required under this Article XI shall be acquired from carriers meeting the qualifications of the Federal National Mortgage Association. All insurance premiums shall be considered common expense to be included in determining the level of assessments levied by the Association. The acquisition of insurance by the Association shall be without prejudice to the right of any Owner to obtain additional individual insurance.

ARTICLE XII

TITLES

The titles, headings and captions which have been used throughout this Declaration are for convenience only and are not to be used in construing this Declaration or any part thereof.

ARTICLE XIII

INTERPRETATION

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If this Declaration or any word, clause, sentence, paragraph, or other part thereof shall be susceptible of more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration shall govern.

ARTICLE XIV

OMISSIONS

If any punctuation, word, clause, sentence, or provision necessary to give meaning, validity, or effect to any other word, clause, sentence, or provision appearing in this Declaration shall be omitted herefrom, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provision shall be supplied by inference.

EXECUTED EFFECTIVE the 25th day of May, 1993,
A.D.

THE SITTERLE CORPORATION

By: Frank J. Sitterle
FRANK J. SITTERLE
PRESIDENT

ORIGINAL DEED

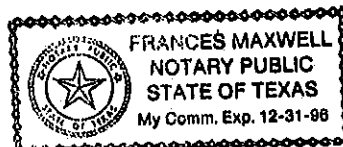
STATE OF TEXAS

COUNTY OF BEXAR

BEFORE ME, the undersigned authority, on this day personally appeared Frank J. Sitterle, President of THE SITTERLE CORPORATION, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, as the act and deed of the said THE SITTERLE CORPORATION, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 25th day of May, 1993, A.D.

Frances Maxwell
Notary Public in and for
The State of Texas
My Commission Expires: _____



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MORTGAGEE'S CONSENT AND SUBORDINATION

THE LAREDO NATIONAL BANK, ("Lender") is the present owner and holder of certain liens and notes (the "liens") against the above-described Lots owned by THE SITTERLE CORPORATION. The notes and Liens are described in part as follows:

Deed of Trust Note dated April 23, 1992,
in the original principal amount of \$ 2,500,000.00
executed by The Sitterle Corporation, payable to
the order of The Laredo National Bank, and secured
by a Deed of Trust filed for record on April 23,
1992, under Bexar County Clerk's Instrument
No. 2243283 of the Real Property Records of
Bexar County, Texas.

Lender hereby joins in the execution of this instrument for the sole purpose of subordinating the Liens to all of the provisions of this Declaration of Restrictive Covenants and Conditions for EMERALD FOREST, PLANNED UNIT DEVELOPMENT, a Planned Unit Development located in Bexar County, Texas. Any Owner who accepts title of any of the Properties subject to this Declaration specifically acknowledges that Lender is not a party to this Declaration except for the sole purpose of subordinating the Liens as set out above, and each Owner who accepts title to any of the Lots hereby specifically and unconditionally releases and discharges Lender, from any claims or liability with respect to, or arising out of, this instrument, except as to actions taken by Lender as a successor to the interest of Declarant.

THE LAREDO NATIONAL BANK

By: Duane L. Lewis
Duane L. Lewis
Its: Executive Vice President

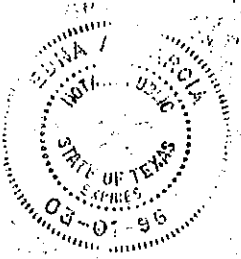
STATE OF TEXAS

COUNTY OF BEXAR

The foregoing instrument was acknowledged before me on the
27th day of April, 1993, by
Duane L. Lewis, Exec. V. P. of The Laredo National Bank
on behalf of said bank.

Linda A. Garcia
Notary Public, State of Texas

My Commission expires: 3-1-96



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