SCANNED

FATCO

After Recording Return To:

Robert D. Burton
Armbrust & Brown, L.L.P.
100 Congress Ave., Suite 1300
Austin, Texas 78701

LT1-81-20080205045-1

LT2-13685-1564-62

ESTONIA

MASTER COVENANT

Bexar County, Texas

NOTE: NO PORTION OF THE PROPERTY DESCRIBED ON EXHIBIT "A" IS SUBJECT TO THE TERMS OF THIS COVENANT UNLESS A NOTICE OF APPLICABILITY DESCRIBING SUCH PORTION OF THE PROPERTY IS FILED IN THE OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY, TEXAS, IN ACCORDANCE WITH SECTION 9.05 BELOW.

Declarant: FCC SAN ANTONIO I LLC, a Delaware limited liability company

ESTONIA

MASTER COVENANT

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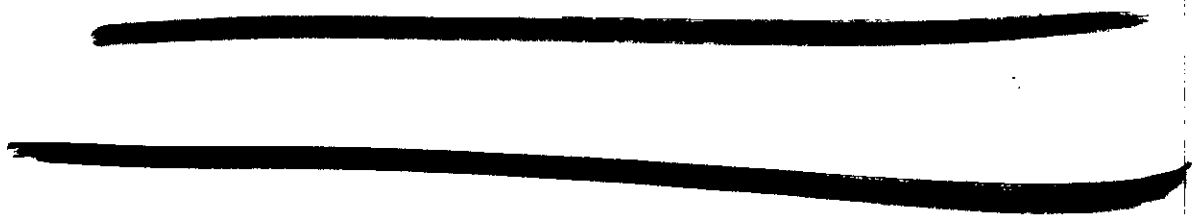
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ESTONIA
MASTER COVENANT

This Estonia Master Covenant (the "**Covenant**") is made by **FCC SAN ANTONIO I LLC**, a Delaware limited liability company (the "**Declarant**"), and is as follows:

RECITALS:

A. Declarant, together with **TRISTONE HOMES, LLC**, a Texas limited liability company ("**Tristone**"), is the present owner of certain real property located in Bexar County, Texas, as more particularly described on Exhibit "A" attached hereto (the "**Property**").

B. Declarant and Tristone desire to create and carry out a uniform plan for the development, improvement, and sale of the Property.

C. Portions of the Property may be made subject to this Covenant upon the filing of one or more notices of applicability pursuant to *Section 9.05* below, and once such notices of applicability have been filed pursuant to *Section 9.05*, the portions of the Property described therein will constitute the Development (as defined below) and will be governed by and fully subject to this Covenant, and the Development in turn will be comprised of separate Development Areas (as defined below) which will be governed by and subject to separate Development Area Declarations (as defined below) in addition to this Covenant.

No portion of the Property is subject to the terms and provisions of this Covenant until a Notice of Applicability (as defined in *Section 9.05*) is filed in the Official Public Records of Bexar County, Texas. A Notice of Applicability may only be filed by Declarant. If Declarant is not the owner of any portion of the Property then being made subject to the terms and provisions of the Covenant, the owner of the Property must execute the Notice of Applicability evidencing its consent to its recordation.

Property versus Development versus Development Area

"Property"-	**Described on Exhibit "A". This is the land that may be made subject to this Covenant, from time to time, by the filing of one or more Notices of Applicability.**
"Development"-	**This is the portion of the land described on Exhibit "A" that has been made subject to this Covenant through the filing of a Notice of Applicability.**
"Development Area"	**This is a portion of the Development. In most circumstances, a Development Area will comprise a separately platted subdivision within the Development.**

D. By the filing of this Covenant, Declarant serves notice that upon the further filing of one or more notices of applicability pursuant to the requirements of *Section 9.05* below, portions of the Property identified in such notice or notices will be subjected to the terms and provisions of this Covenant.

E. Tristone has executed this Covenant for the purpose of evidencing its consent to the terms and provisions hereof.

NOW, THEREFORE, it is hereby declared that: (i) those portions of the Property as and when subjected to this Covenant pursuant to *Section 9.05* below will be held sold, conveyed, and occupied subject to the following covenants, conditions and restrictions which will run with such portions of the Property and will be binding upon all parties having right, title, or interest in or to such portions of the Property or any part thereof, their heirs, successors, and assigns and will inure to the benefit of each owner thereof; and (ii) each contract or deed conveying those portions of the Property which are subjected to this Covenant pursuant to *Section 9.05* will conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not the same are set out in full or by reference in said contract or deed.

This Covenant uses notes (text set apart in boxes) to illustrate concepts and assist the reader. If there is a conflict between any note and the text of the Covenant, the text will control.

ARTICLE I
DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in this Covenant will have the meanings hereinafter specified:

"**Assessment**" or "**Assessments**" means assessments imposed by the Association under this Covenant.

"**Assessment Unit**" has the meaning set forth in *Section 5.08*.

"**Association**" means Estonia Homeowners Association, Inc., a Texas non-profit corporation, which will be created by Declarant to exercise the authority and assume the powers specified in *Article 3* and elsewhere in this Covenant.

"**Board**" means the Board of Directors of the Association.

"**Bulk Rate Contract" or "Bulk Rate Contracts**" means one or more contracts which are entered into by the Association for the provision of utility services or other services of any kind or nature to the Lots and/or Condominium Units. The services provided under Bulk Rate Contracts may include, without limitation, cable television services, telecommunications services, internet access services, "broadband" services, security services, trash pick up services,

propane service, natural gas service, lawn maintenance services and any other services of any kind or nature which are considered by the Board to be beneficial.

"**Bylaws**" means the Bylaws of the Association as adopted and as amended from time to time.

"**Certificate**" means the Certificate of Formation of the Association, filed in the Office of the Secretary of State of Texas, as the same may be amended from time to time.

"**Common Area**" means any property and facilities that the Association owns or in which it otherwise holds rights or obligations. Common Area includes any property that the Association holds under a lease, license, or any easement in favor of the Association. Some Common Area will be solely for the common use and enjoyment of the Owners, while other portions of the Common Area will be for the use and enjoyment of the Owners and members of the public.

"**Condominium Unit**" means an individual unit, including any common element assigned thereto, within a condominium regime, if any, established within the Development.

"**Declarant**" means **FCC SAN ANTONIO I LLC**, a Delaware limited liability company, its successors or assigns; provided that any assignment(s) of the rights of **FCC SAN ANTONIO I LLC**, a Delaware limited liability company, as Declarant, must be expressly set forth in writing and recorded in the Official Public Records of Bexar County, Texas.

The "Declarant" is the party who causes the Property to be developed for actual residential use. Declarant enjoys special privileges to help protect its investment in the Development. These special rights are described in this Covenant. Many of these rights do not terminate until either Declarant: (i) has sold all Lots or Condominium Units which may be created out of the Property; or (ii) voluntarily terminates these rights by a written instrument recorded in the Official Public Records of Bexar County, Texas.

"**Design Guidelines**" means the standards for design, construction, landscaping, and exterior items placed on any Lot or Condominium Unit adopted pursuant to *Section 6.06(b)*, as the same may be amended from time to time. The Design Guidelines may consist of multiple written design guidelines applying to specific portions of the Development. Declarant may, but is not obligated to, adopt the Design Guidelines applicable to the Development or any Development Area.

"**Development**" refers to any and all portions of the Property that are made subject to this Covenant pursuant to *Section 9.05* of this Covenant.

"**Development and Sale Period**" refers the period of time that Declarant owns or has the option to acquire all or any portion of the Property. The Declarant may terminate the Development and Sale Period by an instrument executed by the Declarant and recorded in the Official Public Records of Bexar County, Texas.

"**Development Area**" means any part of the Development (less than the whole), which Development Areas may be subject to Development Area Declarations in addition to being subject to this Covenant.

"**Development Area Declaration**" means, with respect to any Development Area, the separate instruments containing covenants, restrictions, conditions, limitations and/or easements, to which the property within such Development Area is subjected. A Development Area Declaration may take the form of a condominium declaration filed in accordance with Chapter 82 of the Texas Property Code or any successor statute.

"**Development Owner**" refers to any Owner who acquires a Lot for the purpose of resale to a Homebuilder.

"**Estonia Reviewer**" means Declarant or its designee until expiration or termination of the Development and Sale Period. When Declarant no longer owns any portion of the Property, the rights of the Estonia Reviewer will automatically be transferred to the architectural control committee appointed by the Board.

"**Homebuilder**" refers to any Owner who is in the business of constructing residences for resale to third parties and intends to construct a residence (including a Condominium Unit) on such Lot for resale to a third party.

"**Improvement**" means every structure and all appurtenances of every type and kind, whether temporary or permanent in nature, including, but not limited to, buildings, outbuildings, storage sheds, patios, tennis courts, sport courts, recreational facilities, swimming pools, putting greens, garages, driveways, parking areas and/or facilities, storage buildings, sidewalks, fences, gates, screening walls, retaining walls, stairs, patios, decks, walkways, landscaping, mailboxes, poles, signs, antennae, exterior air conditioning equipment or fixtures, exterior lighting fixtures, water softener fixtures or equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

"**Lot**" means any portion of the Development designated by Declarant or as shown as a subdivided lot on a Plat other than Common Area, Special Common Area or a Lot on which a condominium regime that has been established pursuant to Chapter 82 of the Texas Property Code or any successor statute.

"**Manager**" has the meaning set forth in *Section 3.06(h)*.

"**Master Restrictions**" means the restrictions, covenants, and conditions contained in this Covenant, any Development Area Declaration, the Design Guidelines (if any), Bylaws, or in any rules and regulations promulgated by the Association pursuant to this Covenant or any Development Area Declaration, as adopted and amended from time to time. See Table 1 for a summary of the Master Restrictions.

"**Members**" means every person or entity that holds membership privileges in the Association.

"**Membership Agreement**" means an agreement in the form specified by the Board for execution by each Member, evidencing such Member's acknowledgment of and agreement to be bound by the terms of this Covenant.

"**Mortgage**" or "**Mortgages**" means any mortgage(s) or deed(s) of trust securing indebtedness and covering any Lot or Condominium Unit.

"**Mortgagee**" or "**Mortgagees**" means the holder(s) of any Mortgage(s).

"**Owner**" means the person(s), entity or entities, including Declarant, holding all or a portion of the fee simple interest in any Lot or a Condominium Unit, but does not include the Mortgagee under a Mortgage prior to its acquisition of fee simple interest in such Lot or Condominium Unit pursuant to foreclosure of the lien of its Mortgage.

"**Plat**" means a subdivision plat of any portion of the Development as recorded in the Official Public Records of Bexar County, Texas, and any amendments thereto.

"**Property**" means all of that certain real property described on Exhibit "A", attached hereto, subject to such additions thereto and deletions therefrom as may be made pursuant to *Section 9.03* and *Section 9.04* of this Covenant.

"**Service Area**" means a group of Lots and/or Condominium Units designated as a separate Service Area pursuant to this Covenant for purpose of receiving benefits or services from the Association which are not provided to all Lots and Condominium Units. A Service Area may be comprised of more than one housing type and may include noncontiguous Lots. A Lot or Condominium Unit may be assigned to more than one Service Area. Service Area boundaries may be established and modified as provided in *Section 2.04*.

"**Service Area Assessments**" means assessments levied against the Lots and/or Condominium Units in a particular Service Area to fund Service Area Expenses, as described in *Section 5.05*.

"**Service Area Expenses**" means the actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners within a particular Service Area, which may include a reasonable reserve for capital repairs and replacements and a reasonable administrative charge, as may be authorized pursuant to this Covenant.

"**Special Common Area**" means any interest in real property or improvements which is designated by Declarant in a notice of applicability filed pursuant to *Section 9.05*, in a Development Area Declaration, or in any written instrument recorded by Declarant in the Official Public Records of Bexar County, Texas (which designation will be made in the sole and absolute discretion of Declarant) as common area which benefits one or more, but less than all

of the Lots, Owners or Development Areas, and is or will be conveyed to the Association, or otherwise held by Declarant for the benefit of the Owners of property to which such Special Common Area benefits. The notice of applicability, Development Area Declaration, or written notice will identify the Lots, Owners or Development Areas benefited by such Special Common Area. By way of illustration and not limitation, Special Common Area might include such things as private roadways or gates, entry features, or landscaped medians which primarily benefit certain Lots and/or Condominium Units. All costs associated with maintenance, repair, replacement, and insurance of Special Common Area will be assessed as a Special Common Area Assessment against the Owners of the Units and/or Condominium Units to which the Special Common Area is assigned.

TABLE 1: MASTER RESTRICTIONS	
Covenant (recorded)	Creates obligations that are binding upon the Association and all present and future owners of Property made subject to the Covenant by the filing of a Notice of Applicability.
Notice of Applicability (recorded)	Describes the portion of the Property being made subject to the terms and provisions of the Covenant.
Development Area Declaration (recorded)	A recorded covenant which includes additional covenants, conditions and restrictions governing portions of the Development.
Certificate of Formation: (filed with the Secretary of State)	The Certificate of Formation of the Association, which establish the Association as a not-for-profit corporation under Texas law.
By-Laws: (adopted by the Association)	The By-Laws of the Association which govern the Association's internal affairs, such as elections, meetings, etc.
Design Guidelines: (optional – if adopted)	The design standards and architectural and aesthetics guidelines adopted pursuant to *Article 6*, which govern new construction of Improvements and modifications thereto.
Rules: (adopted by the Board of the Association)	The use restrictions and rules of the Association adopted pursuant to *Section 3.06(a)*, which regulate use of property, activities, and conduct within the Development.
Board Resolutions: (adopted by the Board of the Association)	The resolutions adopted by Board which establish rules, policies, and procedures for internal governance and activities of the Association.

ARTICLE II
GENERAL RESTRICTIONS

2.01 **General.** All Lots and Condominium Units within the Development to which a notice of applicability has been filed in accordance with *Section 9.05*, will be owned, held, encumbered, leased, used, occupied and enjoyed subject to: (i) the applicable conditions, restrictions, reservations, and easements contained in this Covenant; (ii) any applicable conditions, restrictions, reservations, and easements contained in the Development Area Declaration covering the Development Area in which such Lot or Condominium Unit is located; (iii) the Design Guidelines, if any, as amended or modified as to such Lots or Condominium Units; and (iv) any rules and regulations adopted by the Board. **NO PORTION OF THE PROPERTY WILL BE SUBJECT TO THE TERMS AND PROVISIONS OF THIS COVENANT UNTIL A NOTICE OF APPLICABILITY HAS BEEN FILED FOR SUCH PROPERTY IN ACCORDANCE WITH *SECTION 9.05* OF THIS COVENANT.**

Ordinances and requirements imposed by local governmental authorities are applicable to all Lots and Condominium Units within the Development. Compliance with this Covenant and the Design Guidelines is not a substitute for compliance with such ordinances and regulations. Please be advised that neither the Covenant nor the Design Guidelines purport to list or describe each restriction which may be applicable to a Lot or Condominium Unit located within the Development. Each Owner is advised to review all encumbrances affecting the use and improvement of their Lot or Condominium Unit prior to submitting plans to the Estonia Reviewer for approval. Furthermore, approval by the Estonia Reviewer should not be construed by the Owner that any Improvement complies with the terms and provisions of all encumbrances which may affect the Owner's Lot or Condominium Unit. Certain encumbrances may benefit parties whose interests are not addressed by the Estonia Reviewer.

Each Owner is further advised that, as of the date of this Covenant, local governmental authorities may require that the Owner obtain from the Estonia Reviewer approval of all Improvements proposed to be located on a Lot or Condominium Unit prior to submitting plans for the Improvements to the local governmental authorities for approval. Each Owner is further advised that if any local governmental authority requires pre-approval of all Improvements prior to submission to the local authority for approval, any approval granted by the Estonia Reviewer, or any notation on the plans signifying Estonia Reviewer approval, is conditional and no Improvements may be constructed on the Lot or Condominium Unit until the Owner has submitted to the Estonia Reviewer a copy of the plans and specifications approved by the local governmental authority and the Estonia Reviewer has issued to the owner a "Notice to Proceed.". In the event of a conflict between the plans and specifications approved by the Estonia Reviewer and the plans and specifications approved by a local governmental authority, the Estonia Reviewer may require that the Owner resubmit the plans and specifications for re-approval by the Estonia Reviewer, may withdraw the approval previously granted to the Owner, or may require that the Owner apply to the Estonia Reviewer for a variance. Each Owner acknowledges that no local governmental authority has the authority to modify the terms and provisions of this Covenant, any Development Area Declaration, or the Design

Guidelines applicable to the Development (if any). A local governmental authority may change or modify the requirements and procedures applicable to their approval of plans and specifications for the construction of Improvements, and each Owner is advised to contact each local governmental authority to obtain a current version of such requirements and procedures.

NOTICE

This Covenant, any Development Area Declaration, the Design Guidelines (if any), and the rules and regulations adopted by the Board are subject to change from time to time. By owning or occupying a Lot or Condominium Unit, you agree to remain in compliance with this Covenant, any applicable Development Area Declaration, the Design Guidelines, and the rules and regulations, as they may change from time to time.

2.02 **Incorporation of Development Area Declarations.** Upon recordation of a Development Area Declaration in the Official Public Records of Bexar County, Texas, such Development Area Declaration will, automatically and without the necessity of further act, be incorporated into, and be deemed to constitute a part of this Covenant, to the extent not in conflict with this Covenant, but will apply only to the Development Area described in and covered by such Development Area Declaration.

2.03 **Conceptual Plans.** All master plans, site plans, brochures, illustrations, information and marketing materials relating to the Property (collectively, the "**Conceptual Plans**") are conceptual in nature and are intended to be used for illustrative purposes only. The land uses reflected on the Conceptual Plans are subject to change at any time and from time to time, and it is expressly agreed and understood that land uses within the Property may include uses which are not shown on the Conceptual Plans. Neither Declarant nor any Homebuilder or other developer of any portion of the Property or the Development makes any representation or warranty concerning such land uses and it is expressly agreed and understood that no Owner will be entitled to rely upon the Conceptual Plans in making the decision to purchase any land or Improvements within the Property or the Development. Each Owner who acquires a Lot within the Development acknowledges that the Development is a master planned community, the development of which is likely to extend over many years, and agrees that the Association will not engage in, or use Association funds to support, protest, challenge, or make any other form of objection to changes in the Conceptual Plans as they may be amended or modified from time to time.

The Development is a master planned community which will be developed over a number of years. Changes may be made to the plans for the Development from time to time.

2.04 **Provision of Benefits and Services to Service Areas.**

(a) Declarant, in a notice of applicability filed pursuant to *Section 9.05* or in any written notice recorded in the Official Public Records of Bexar County, Texas, may assign Lots and/or Condominium Units to one or more Service Areas (by name or other identifying designation) as it deems appropriate, which Service Areas may be then existing or newly created, and may require that the Association provide benefits or services to such Lots and/or Condominium Units in addition to those which the

Association generally provides to the Development. Declarant may unilaterally amend any notice of applicability or any written notice recorded in the Official Public Records of Bexar County, Texas, to re-designate Service Area boundaries. All costs associated with the provision of services or benefits to a Service Area will be assessed against the Lots and/or Condominium Units within the Service Area as a Service Area Assessment.

(b) In addition to Service Areas which Declarant may designate, any group of Owners may petition the Board to designate their Lots and/or Condominium Units as a Service Area for the purpose of receiving from the Association: (a) special benefits or services which are not provided to all Lots and/or Condominium Units, or (b) a higher level of service than the Association otherwise provides. Upon receipt of a petition signed by Owners of a majority of the Lots and/or Condominium Units within the proposed Service Area, the Board will investigate the terms upon which the requested benefits or services might be provided and notify the Owners in the proposed Service Area of such terms and the charge to made therefor, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge will apply at a uniform rate per Lot and/or Condominium Unit among all Service Areas receiving the same service). Upon written approval of the proposal by Owners of at least sixty-seven percent (67%) of the Lots and/or Condominium Units within the proposed Service Area, the Association will provide the requested benefits or services on the terms set forth in the proposal. The cost and administrative charges associated with such benefits or services will be assessed against the Lots and/or Condominium Unit within such Service Area as a Service Area Assessment.

2.05 **Permitted Uses.** The Lots and Condominium Units must be used solely for private single family residential purposes and/or professional, business, or commercial activity that conforms to all zoning requirements applicable to the Property. No Lot or Condominium Unit may be used for: (a) a business that specializes in bankruptcy or liquidation sales or the selling of fire damaged items; (b) an auction house, flea market, pawn shop, thrift store or other store which sells used or "second-hand" merchandise; (c) a kennel or other business involving the boarding or care of animals; (d) an establishment for sale of automobiles, trucks, mobile homes, or recreational motor vehicles; (e) a night club, bar, lounge, or tavern; (f) a dance hall (except a professional dance instruction studio), ballroom, discotheque or game parlor; (g) an adult type bookstore or other establishment selling, renting, displaying or exhibiting pornographic or obscene materials (including without limitation, magazines, books, movies, videos, photographs or so called "sexual toys") or providing adult type entertainment or activities (including, without limitation, any displays or activities of a variety involving, exhibiting or depicting sexual themes, nudity or lewd acts); (h) a sexually oriented massage parlor; (i) a gambling establishment or betting parlor; (j) a mortuary, crematorium or funeral home; (k) a dry cleaning plant, central laundry or laundromat; (l) a storage or mini warehouse facility; (m) any use which is illegal or which, in the reasonable opinion of the Estonia Reviewer, is offensive by reason of odor, fumes, dust, smoke, noise or pollution, or hazardous by reason of

excess danger of fire or explosion; or (n) any use which, in the reasonable opinion of the Estonia Reviewer, is obnoxious to or incompatible with the overall character of the Development.

ARTICLE III
ESTONIA HOMEOWNERS ASSOCIATION, INC.

3.01 **Organization.** The Association will be a nonprofit corporation created for the purposes, charged with the duties, and vested with the powers of a Texas non-profit corporation. Neither the Certificate nor Bylaws will for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Covenant.

3.02 **Neighborhoods.** Due to the number of Lots and Condominium Units that may be developed in the Development, during the Development and Sale Period, Declarant may, but is not obligated to, institute a representative system of voting known as "**Neighborhood Voting**". If Declarant elects to institute Neighborhood Voting, Lots will be grouped into "**Neighborhoods**" to: (i) facilitate a system of representative voting on matters which this Covenant or any Development Area Declaration require approval of the Association's membership; and (ii) to promote a sense of community and belonging by permitting Owners and residents within a Neighborhood to share, discuss and take action on issues unique to their Neighborhood. A Neighborhood may be comprised of any number of Lots and may include Lots of more than one type, as well as Lots that are not contiguous to one another. Each Neighborhood will elect one "Neighborhood Delegate" to cast the votes allocated to all Lots and/or Condominium Units in that Neighborhood on matters requiring a vote of the Owners, as described below in this *Article* 3.

If Declarant elects to institute Neighborhood Voting, Declarant will record in the Official Public Records of Bexar County, Texas a notice which confirms that Declarant has elected to commence Neighborhood Voting, and sets forth the initial assignment of Lots and/or Condominium Units to one or more "Neighborhoods". Thereafter, for so long as Neighborhood Voting is in effect, each notice of applicability filed pursuant to *Section 9.05* for the purpose of annexing additional portions of the Property into the Development shall initially assign the property described therein to a specific Neighborhood which may then be existing or newly created. During the Development and Sale Period, Declarant may record a written notice in the Official Public Records of Bexar County, Texas to designate or change Neighborhood boundaries, to terminate Neighborhood Voting, or to re-commence Neighborhood Voting after a prior termination.

3.03 **Election of Neighborhood Delegates.** During any period in which Neighborhood Voting is in effect, the Owners of Lots in each Neighborhood shall elect a "**Neighborhood Delegate**" and an alternative Neighborhood Delegate, in the manner provided below, to cast the votes of all Lots in the Neighborhood on matters requiring a vote of the membership, except where this Covenant specifically requires a vote of the Owners.

(a) Candidates for election as the Neighborhood Delegate and alternate Neighborhood Delegate from a Neighborhood shall be Owners of Lots and Condominium Units in the Neighborhood, or spouses of such Owners. The Neighborhood Delegate and the alternate Neighborhood Delegate shall be elected on a biennial basis (once every two years), either by written ballot or at a meeting of the Owners within each Neighborhood, as the Board determines; provided, upon written petition signed by Owners holding at least ten percent (10%) of the votes within any Neighborhood, the election for such Neighborhood shall be held at a meeting. The presence, in person or by proxy, of Owners representing at least thirty percent (30%) of the total votes in a Neighborhood shall constitute a quorum at any Neighborhood meeting.

(b) The Board shall call for the first election of a Neighborhood Delegate from a Neighborhood not later than ninety (90) days after Declarant has recorded in the Official Public Records of Bexar County, Texas a notice creating such Neighborhood. Subsequent elections shall, if necessary, be held within thirty (30) days of the same date each year. The candidate for each position who receives the greatest number of votes shall be elected to serve until his or her successor is elected.

(c) Any Neighborhood Delegate may be removed, with or without cause, upon the vote or written petition of Owners holding a majority of the votes allocated to the Lots and Condominium Units in the Neighborhood that the Neighborhood Delegate represents.

(d) The Neighborhood Delegate or, in his or her absence, the alternate Neighborhood Delegate attends Association meetings and casts all votes allocated to Lots and Condominium Units in the Neighborhood that he or she represents on any matter as to which such Neighborhood Delegate is entitled to vote under this Covenant. A Neighborhood Delegate may cast all votes allocated to Lots and Condominium Units in the Neighborhood in such delegate's discretion and may, but need not, poll the Owners of Lots and Condominium Units in the Neighborhood which he or she represents prior to voting.

(e) Neighborhood Delegates are subordinate to the Board and their responsibility and authority does not extend to policymaking, supervising, or otherwise being involved in Association governance beyond voting on matters put to a vote of the membership.

3.04 **Membership**.

(a) Any person or entity, upon becoming an Owner, will automatically become a Member of the Association. Membership will be appurtenant to and will run with the ownership of the Lot or Condominium Unit that qualifies the Owner thereof for membership, and membership may not be severed from the ownership of the Lot or

Condominium Unit, or in any way transferred, pledged, mortgaged or alienated, except together with the title to such Lot or Condominium Unit.

If you acquire a Lot or Condominium Unit you automatically become a member of the Association. Membership is Mandatory!

(b) If required by the Board, each Owner, other than Declarant, must execute a Membership Agreement and deliver the same to the Association prior to or concurrently with the recording of a deed conveying fee title to a Lot or Condominium Unit to such Owner. Each Owner must notify the immediate transferee of his Lot or Condominium Unit of such transferee's obligation to execute and deliver a Membership Agreement, but the failure to notify a transferee will not relieve such transferee of his obligations under this *Section 3.04(b)*. The failure to execute a Membership Agreement will not prevent any person from being a Member or Owner under the terms of the Certificate, Bylaws or Master Restrictions, or excuse any Member from the payment of Assessments. If a Membership Agreement is required by the Board, an Owner who has not executed and delivered a Membership Agreement will automatically forfeit his right to vote as a Member and additionally forfeit his right to the use and enjoyment of the Common Area and applicable Special Common Area. Such Owner will not be entitled to restoration of his voting privileges and rights in the Common Area or applicable Special Common Area until execution and delivery of a Membership Agreement by such Owner. However, the Board may, at the Board's sole discretion, provide that a Member will be entitled to the full privileges of membership in the Association, notwithstanding the failure to execute a Membership Agreement. In the event Members are entitled to a key, membership card or other token evidencing or facilitating the right to use any Improvements erected or placed on the Common Area or Special Common Area, the Board may require any Member who has not executed a Membership Agreement to return the same to the Board immediately.

Within thirty (30) days after acquiring legal title to a Lot or Condominium Unit, each Owner must provide the Association with: (1) a copy of the recorded deed by which the Owner has acquired title to the Lot or Condominium Unit; (2) the Owner's address, phone number, and driver's license number, if any; (3) any Mortgagee's name and address; and (4) the name and phone number of any resident other than the Owner.

You may be required to execute a Membership Agreement before using any of the Association's property or voting on any Association matter. Your obligation to pay assessments to the Association and comply with this Covenant, any applicable Development Area Declarant, the Design Guidelines (if any), or the rules and regulations will not be affected by your failure to execute a Membership Agreement. Also, you must provide certain information to the Association upon acquiring a Lot or Condominium Unit.

(c) Every Member will have a right and easement of enjoyment in and to all of the Common Area and an access easement by and through any Common Area, which easements will be appurtenant to and will pass with the title to such Member's Lot or

Condominium Unit, subject to *Section 3.04(b)* above and subject to the following restrictions and reservations:

(i) The right of the Association to suspend the Member's voting rights and right to use the Common Area for any period during which any Assessment against such Member's Lot or Condominium Unit remains past due and for any period during which such member is in violation of any provision of this Covenant;

(ii) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for any purpose;

(iii) The right of the Association to borrow money for the purpose of improving the Common Area and, in furtherance thereof, mortgage the Common Area;

(iv) The right of the Association to make reasonable rules and regulations regarding the use of the Common Area and any Improvements thereon; and

(v) The right of the Association to contract for services with any third parties on such terms as the Association may determine.

(d) Each Owner of a Lot or Condominium Unit which has been designated as a beneficiary of Special Common Area in a notice of applicability, Development Area Declaration, or other recorded instrument, will have a right and easement of enjoyment in and to all of such Special Common Area, and an access easement by and through such Special Common Area, which easement will be appurtenant to and will pass with title to such Owner's Lot or Condominium Unit, subject to *Section 3.04(b)* above and subject to the following restrictions and reservations:

(i) The right of Declarant to restrict the use of the Special Common Area to the beneficiaries designated in a notice of applicability filed pursuant to *Section 9.05* or a Development Area Declaration;

(ii) The right of the Association to suspend the Members voting rights and right to use the Special Common Area for any period during which any Assessment against such Member's Lot or Condominium Unit remains past due and for any period during which such Member is in violation of any provision of this Covenant;

(iii) The right of the Association to dedicate or transfer all or any part of the Special Common Area to any public agency, authority or utility for any purpose;

(iv) The right of the Association to borrow money for the purpose of improving the Special Common Area, and, in furtherance thereof, mortgage the Special Common Area;

(v) The right of the Association to make reasonable rules and regulations regarding use of the Special Common Area and any Improvements thereon; and

(vi) The right of the Association to contract for services with any third parties on such terms as the Association may determine.

3.05 **Vote Allocation**.

(a) The Owner of each Lot will be allocated one (1) vote for each Lot so owned. In the event of the re-subdivision of any Lot into two or more Lots: (i) the number of votes to which such Lot is entitled will be increased as necessary to retain the ratio of one (1) vote for each Lot resulting from such re-subdivision, e.g., each Lot resulting from the re-subdivision will be entitled to one (1) vote; and (ii) each Lot resulting from the re-subdivision will be allocated one (1) Assessment Unit. In the event of the consolidation of two (2) or more Lots for purposes of construction of a single residence thereon, voting rights and Assessments will continue to be determined according to the number of original Lots contained in such consolidated Lot. Nothing in this Covenant will be construed as authorization for any re-subdivision or consolidation of Lots, such actions being subject to the conditions and restrictions of the applicable Development Area Declaration.

(b) Each Owner of a Condominium Unit will be allocated the number of votes for such Condominium Unit so owned as determined by Declarant at the time that a Development Area Declaration is first recorded in the Official Public Records of Bexar County, Texas for the Development Area within which such Condominium Unit is located. Declarant will determine such votes in its sole discretion, taking into account, among other things, the relationship of Condominium Units to the entire Development. Declarant's determination regarding the number of votes to which such Owners will be entitled will be final, binding and conclusive. Such determination of Declarant may also be set forth in the notice filed by Declarant pursuant to *Section 9.05* below for the Development Area within which such Condominium Unit(s) are located. Prior to the time any Condominium Units in a Development Area are conveyed by Declarant to any person not affiliated with Declarant, Declarant may amend or modify its allocation of votes by filing an amended notice in the Official Public Records of Bexar County, Texas, setting forth the amended allocation. In addition, Declarant, in its sole and absolute

discretion, may modify or amend (which amendment or modification may be effected after Declarant's conveyance of any Condominium Units to any person not affiliated with Declarant) the number of votes previously assigned to a Condominium Unit if the Improvements actually constructed on the Condominium Unit differ substantially from the Improvements contemplated to be constructed thereon at the time a notice allocating votes thereto was originally filed. In the event of a modification to the votes allocated to a Condominium Unit, Declarant will file of record an amended vote determination setting forth the revised allocation of votes attributable to such Condominium Unit.

(c) In addition to the votes to which Declarant is entitled by reason of *Section 3.05(a)* and *Section 3.05(b)*, for every one (1) vote outstanding in favor of any other person or entity, Declarant will have four (4) additional votes until the expiration or termination of the Development and Sale Period. Notwithstanding any provision to the contrary in this Covenant, until the expiration or termination of the Development and Sale Period, Declarant will be entitled to appoint and remove all members of the Board. Declarant may terminate its right as to the appointment and removal of one or all the Board members by the recordation of a termination notice executed by Declarant and recorded in the Official Public Records of Bexar County, Texas. In the event Declarant terminates its right to appointment and remove less than all of the Board members, the Board positions to which the termination applies will be elected by the Members or Neighborhood Delegates (as applicable). Each Board member elected by the Members or Neighborhood Delegates (as applicable)in accordance with the foregoing sentence will be elected for a term of one (1) year.

(d) At such time as Declarant no longer has the right to appoint and remove all members of the Board as provided in *Section 3.05(c)*, the Board will be increased to five (5) members. The President of the Association will thereupon call a meeting of the Members of the Association where the Members or Neighborhood Delegates, as applicable, will elect one (1) Director for a three (3) year term, two (2) Directors for a two (2) year term, and two (2) Directors for a one (1) year term. Upon expiration of the term of a Director elected by the Members or Neighborhood Delegates, as applicable as provided herein, his or her successor will be elected by the Members or Neighborhood Delegates, as applicable for a term of two (2) years. A Director takes office upon the adjournment of the meeting or balloting at which he is elected or appointed and, absent death, ineligibility, resignation, or removal, will hold office until his successor is elected or appointed.

(e) When more than one person or entity owns a portion of the fee simple interest in any Lot or Condominium Unit, all such persons or entities will be Members. The vote or votes (or fraction thereof) for such Lot or Condominium Unit will be exercised by the person so designated in writing to the Secretary of the Association by the Owner of such Lot or Condominium Unit (or in the Membership Agreement relating to such Lot if required by the Board), and in no event will the vote for such Lot or

Condominium Unit exceed the total votes to which such Lot or Condominium is otherwise entitled under this *Section 3.05*.

(f) The right of any Owner to vote may be suspended by the Association, acting through the Board, for any period during which any Assessment against such Owner's Lot(s) or Condominium Unit(s) remain past due, for any period during which such Owner or such Owners' Lot(s) or Condominium Unit(s) are in violation of this Covenant, and, as provided in *Section 3.04(b)* above, for any period during which such Owner has failed to execute and deliver a Membership Agreement. In addition, Declarant may suspend the right of any Owner to vote during the period such Owner's Lot or Condominium Unit is exempt from Assessments in accordance with *Section 5.08(f)*.

3.06 **Powers**. The Association will have the powers of a Texas nonprofit corporation. It will further have the power to do and perform any and all acts that may be necessary or proper, for or incidental to, the exercise of any of the express powers granted to it by the laws of Texas or this Covenant. Without in any way limiting the generality of the two preceding sentences, the Board, acting on behalf of the Association, will have the following powers at all times:

(a) Rules and Bylaws. To make, establish and promulgate, and in its discretion to amend from time to time, or repeal and re-enact, such rules, regulations, and Bylaws not in conflict with this Covenant, as it deems proper, covering any and all aspects of the Development (including the operation, maintenance and preservation thereof) or the Association.

When you acquire a Lot or Condominium Unit, you will be required to comply with the terms of this Covenant, the Development Area Declaration applicable to your Lot or Condominium Unit, the Design Guidelines (if any), and any rules and regulations adopted by the Board. Yes, there are lots of rules!

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

(c) Records. To keep books and records of the Association's affairs, and to make such books and records, together with current copies of the Master Restrictions available for inspection by the Owners, Mortgagees, and insurers or guarantors of any Mortgage upon request during normal business hours.

(d) Assessments. To levy and collect assessments and to determine Assessment Units, as provided in *Article 5* below.

(e) Right of Entry and Enforcement. To enter at any time without notice in an emergency (or in the case of a non-emergency, after twenty-four (24) hours written

notice), without being liable to any Owner, upon any Lot and into any Improvement thereon or into any Condominium Unit for the purpose of enforcing the Master Restrictions or for the purpose of maintaining or repairing any area, Improvement or other facility to conform to this Covenant, a Development Area Declaration, or the Design Guidelines (if any). The expense incurred by the Association in connection with the entry upon any Lot or into any Condominium Unit and the maintenance and repair work conducted thereon or therein will be a personal obligation of the Owner of the Lot or the Condominium Unit so entered, will be deemed a special Assessment against such Lot or Condominium Unit, will be secured by a lien upon such Lot or Condominium Unit, and will be enforced in the same manner and to the same extent as provided in *Article 5* hereof for Assessments. The Association will have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of the Master Restrictions. The Association is also authorized to settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the Master Restrictions; provided, however, that the Board will never be authorized to expend any Association funds for the purpose of bringing suit against Declarant, or their successors or assigns. The Association may not alter or demolish any Improvements on any Lot or Condominium Unit other than Common Area or Special Common Area in enforcing this Covenant before a judicial order authorizing such action has been obtained by the Association, or before the written consent of the Owner(s) of the affected Lot(s) or Condominium Unit(s) has been obtained. **EACH SUCH OWNER WILL INDEMNIFY AND HOLD HARMLESS THE ASSOCIATION, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF THE ASSOCIATION'S ACTS OR ACTIVITIES UNDER THIS *SECTION 3.06(e)* (INCLUDING ANY COST, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING OUT OF THE ASSOCIATION'S NEGLIGENCE IN CONNECTION THEREWITH), EXCEPT FOR SUCH COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING BY REASON OF THE ASSOCIATION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE.**

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

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

(i) Parks, parkways or other recreational facilities or structures;

(ii) Roads, streets, sidewalks, signs, street lights, walks, driveways, trails and paths;

(iii) Lines, cables, wires, conduits, pipelines or other devices for utility purposes;

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

(v) Any similar improvements or facilities.

Nothing set forth above, however, will be construed to permit use or occupancy of any Improvement or other facility in a way that would violate applicable use and occupancy restrictions imposed by the Master Restrictions or by any governmental authority.

(h) Manager. To retain and pay for the services of a person or firm (the "**Manager**") to manage and operate the Association, including its property, to the extent deemed advisable by the Board. Additional personnel may be employed directly by the Association or may be furnished by the Manager. Each contract entered into between the Association and the Manager will be terminable by the Association without cause upon sixty (60) days written notice to the Manager. To the extent permitted by law, the Board may delegate any other duties, powers and functions to the Manager. **THE MEMBERS HEREBY RELEASE THE ASSOCIATION AND THE MEMBERS OF THE BOARD FROM LIABILITY FOR ANY OMISSION OR IMPROPER EXERCISE BY THE MANAGER OF ANY SUCH DUTY, POWER OR FUNCTION SO DELEGATED.**

(i) Property Services. To pay for water, sewer, garbage removal, street lights, landscaping, gardening and all other utilities, services, repair and maintenance for the Property and any Common Area, including but not limited to private or public recreational facilities, easements, roads, roadways, rights-of-ways, signs, parks, parkways, median strips, sidewalks, paths, trails, ponds, and lakes.

(j) Other Services and Properties. To obtain and pay for any other property and services, and to pay any other taxes or assessments that the Association or the Board is required or permitted to secure or to pay for pursuant to applicable law (including the Texas Non-Profit Corporation Act) or under the terms of the Master Restrictions or as determined by the Board.

(k) Construction on Common Area. To construct new Improvements or additions to any property owned, leased, or licensed by the Association, subject to the approval of the Board.

(l) Contracts. To enter into Bulk Rate Contracts or other contracts or licenses with Declarant or any third party on such terms and provisions as the Board will determine, to operate and maintain any Common Area, Special Common Area, or other property, or to provide any service, including but not limited to cable, utility, or telecommunication services, or perform any function on behalf of Declarant, the Board, the Association, or the Members.

(m) Property Ownership. To acquire, own and dispose of all manner of real and personal property, including habitat, whether by grant, lease, easement, gift or otherwise.

(n) Authority with Respect to Development Area Declaration. To do any act, thing or deed that is necessary or desirable, in the judgment of the Board, to implement, administer or enforce any Development Area Declaration. Any decision by the Association to delay or defer the exercise of the power and authority granted by this *Section 3.06(n)* will not subsequently in any way limit, impair or affect ability of the Association to exercise such power and authority.

(o) Allocation of Votes. To determine votes when permitted pursuant to *Section 3.05* above.

(p) Membership Privileges. To establish rules and regulations governing and limiting the use of the Common Area, Special Common Area, and any Improvements thereon.

3.07 **Acceptance of Common Area and Special Common Area.** The Association may acquire, hold, and dispose of any interest in tangible and intangible personal property and real property. Declarant and its assignees may transfer or convey to the Association interests in real or personal property within or for the benefit of the Development, or the Development and the general public, and the Association will accept such transfers and conveyances. Such property may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests. Such property will be accepted by the Association and thereafter will be maintained as Common Area or Special Common Area, as applicable, by the Association for the benefit of the Development and/or the general public subject to any restrictions set forth in the deed or other instrument transferring or assigning such property to the Association. Upon Declarant's written request, the Association will re-convey to Declarant any unimproved real property that Declarant originally conveyed to the Association for no payment to the extent conveyed in error or needed to make minor adjustments in property lines.

3.08 **Indemnification.** To the fullest extent permitted by applicable law but without duplication (and subject to) any rights or benefits arising under the Certificate or Bylaws of the Association, the Association will indemnify any person who was, or is, a party, or is threatened to be made a party to any threatened pending or completed action, suit or proceeding, whether

civil, criminal, administrative or investigative by reason of the fact that he is, or was, a director, officer, committee member, employee, servant or agent of the Association against expenses, including attorneys' fees, reasonably incurred by him in connection with such action, suit or proceeding if it is found and determined by the Board or a Court that he (1) acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association, or (2) with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of *nolo contendere* or its equivalent, will not of itself create a presumption that the person did not act in good faith or in a manner which was reasonably believed to be in, or not opposed to, the best interests of the Association or, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

3.09 **Insurance.** The Board may purchase and maintain, at the expense of the Association, insurance on behalf of any person who is acting as a director, officer, committee member, employee, servant or agent of the Association against any liability asserted against him or incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability or otherwise.

3.10 **Control by Declarant.** Notwithstanding anything to the contrary, Declarant, or its successors or assigns, will have the absolute right to appoint members of the Board and their successors (any appointment of a successor will be a deemed removal of the Board member being replaced by such appointment) until the expiration or termination of the Development and Sale Period. Declarant, at its option, may assign or delegate, in whole or in part, its rights and powers to the Association, the Board or any other entity provided such designation is in writing.

3.11 **Bulk Rate Contracts.** Without limitation on the generality of the Association powers set out in *Section 3.06* hereinabove, the Association will have the power to enter into Bulk Rate Contracts at any time and from time to time. The Association may enter into Bulk Rate Contracts with any service providers chosen by the Board (including Declarant, and/or any entities in which Declarant, or the owners or partners of Declarant are owners or participants, directly or indirectly). The Bulk Rate Contracts may be entered into on such terms and provisions as the Board may determine in its sole and absolute discretion. The Association may, at its option and election add the charges payable by such Owner under such Bulk Rate Contract to the Assessments against such Owner's Lot or Condominium Unit. In this regard, it is agreed and understood that, if any Owner fails to pay any charges due by such Owner under the terms of any Bulk Rate Contract, then the Association will be entitled to collect such charges by exercising the same rights and remedies it would be entitled to exercise under this Covenant with respect to the failure by such Owner to pay Assessments, including without limitation the right to foreclose the lien against such Owner's Lot or Condominium Unit which is reserved under the terms and provisions of this Covenant. In addition, in the event of nonpayment by any Owner of any charges due under any Bulk Rate Contract and after the lapse of at least twelve (12) days since such charges were due, the Association may, upon five (5) days' prior written notice to such Owner (which may run concurrently with such twelve (12) day period),

in addition to all other rights and remedies available at law, equity or otherwise, terminate, in such manner as the Board deems appropriate, any utility service or other service provided at the cost of the Association and not paid for by such Owner (or the occupant of such Owner's Lot or Condominium Unit) directly to the applicable service or utility provider. Such notice will consist of a separate mailing or hand delivery at least five (5) days prior to a stated date of termination, with the title "termination notice" or similar language prominently displayed on the notice. The notice will include the office or street address where the Owner (or the occupant of such Owner's Lot or Condominium Unit) can make arrangements for payment of the bill and for re-connection or re-institution of service. No utility or cable television service will be disconnected on a day, or immediately preceding a day, when personnel are not available for the purpose of collection and reconnecting such services.

3.12 **Community Systems**. The Association is specifically authorized to provide, or to enter into contracts with other Persons to provide, central telecommunication receiving and distribution systems (e.g. cable television, high speed data/Internet/intranet services, and security monitoring) and related components, including associated infrastructure, equipment, hardware, and software, to serve the Development ("**Community Systems**"). Any such contracts may provide for installation, operation, management, maintenance, and upgrades or modifications to the Community Systems as the Board determines appropriate. Each Owner acknowledges that interruptions in cable television and other Community Systems and services will occur from time to time. The Declarant and the Association, or any of their respective successors or assigns shall not be liable for, and no Community System or service user shall be entitled to refund, rebate, discount, or offset in applicable fees for, any interruption in Community Systems and services, regardless of whether or not such interruption is caused by reasons within the service provider's control.

ARTICLE IV
INSURANCE

4.01 **Insurance**. Each Owner will be required to purchase and maintain commercially standard insurance on the Improvements located upon such Owner's Lot or Condominium Unit. The Association will not be required to maintain insurance on the Improvements constructed upon any Lot or Condominium Unit. The Association may, however, obtain such insurance as it may deem necessary, including but not limited to such policies of liability and property damage insurance as the Board, in its discretion, may deem necessary. Insurance premiums for such policies will be a common expense to be included in the assessments levied by the Association. The acquisition of insurance by the Association will be without prejudice to the right and obligation of any Owner to obtain additional individual insurance.

ARE YOU COVERED?

The Association will not provide insurance which covers an Owner's Lot, a Condominium Unit, or any Improvements or personal property located on a Lot or contained within a Condominium Unit.

4.02 **Restoration.** In the event of any fire or other casualty, the Owner will promptly repair, restore and replace any damaged or destroyed structures to their same exterior condition existing prior to the damage or destruction thereof. Such repair, restoration or replacement will be commenced and completed in a good and workmanlike manner using exterior materials identical to those originally used in the structures damaged or destroyed. To the extent that the Owner fails to commence such repair, restoration or replacement of substantial or total damage or destruction within one hundred and twenty (120) days after the occurrence of such damage or destruction, and thereafter prosecute same to completion, or if the Owner does not clean up any debris resulting from any damage within thirty (30) days after the occurrence of such damage, the Association may commence, complete or effect such repair, restoration, replacement or clean-up, and such Owner will be personally liable to the Association for the cost of such work; provided, however, that if the Owner is prohibited or delayed by law, regulation or administrative or public body or tribunal from commencing such repair, restoration, replacement or clean-up, the rights of the Association under this provision will not arise until the expiration of thirty (30) days after such prohibition or delay is removed. If the Owner fails to pay such cost upon demand by the Association, the cost thereof (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, than at the rate of one and one-half percent (1½%) per month) will be added to the Assessment chargeable to the Owner's Lot or Condominium Unit. Any such amounts added to the Assessments chargeable against a Lot or Condominium Unit will be secured by the liens reserved in the Covenant for Assessments and may be collected by any means provided in this Covenant for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot or Condominium Unit. **EACH SUCH OWNER WILL INDEMNIFY AND HOLD HARMLESS THE ASSOCIATION AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF THE ASSOCIATION'S ACTS OR ACTIVITIES UNDER THIS *SECTION 4.02*, EXCEPT FOR SUCH COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR COST OF ACTION ARISING BY REASON OF THE ASSOCIATION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" AS USED HEREIN DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE.**

4.03 **Mechanic's and Materialmen's Lien.** Each Owner whose structure is repaired, restored, replaced or cleaned up by the Association pursuant to the rights granted under this *Article 4*, hereby grants to the Association an express mechanic's and materialmen's lien for the reasonable cost of such repair, restoration, or replacement of the damaged or destroyed Improvement to the extent that the cost of such repair, restoration or replacement exceeds any insurance proceeds allocable to such repair, restoration or replacement and delivered to the Association. Upon request by the Board, and before the commencement of any reconstruction, repair, restoration or replacement, such Owner will execute all documents sufficient to effectuate such mechanic's and materialmen's lien in favor of the Association.

ARTICLE V
COVENANT FOR ASSESSMENTS

5.01 **Assessments.**

(a) Assessments established by the Board pursuant to the provisions of this *Article 5* will be levied against each Lot and Condominium Unit in amounts determined pursuant to *Section 5.08* below. The total amount of Assessments will be determined by the Board pursuant to *Section 5.03, 5.04, 5.05 5.06* and/or *5.07*.

(b) Each Assessment, together with such interest thereon and costs of collection as hereinafter provided, will be the personal obligation of the Owner of the Lot or Condominium Unit against which the Assessment is levied and will be secured by a lien hereby granted and conveyed by Declarant to the Association against each such Lot and all Improvements thereon and each such Condominium Unit (such lien, with respect to any Lot or Condominium Unit not in existence on the date hereof, will be deemed granted and conveyed at the time that such Lot or Condominium Unit is created). The Association may enforce payment of such Assessments in accordance with the provisions of this Article.

(c) Declarant may, but is not obligated to, reduce Assessments which would otherwise be levied against Lots and Condominium Units for any fiscal year by the payment of a subsidy to the Association. Any subsidy paid to the Association by Declarant may be treated as a contribution or a loan, in Declarant's sole and absolute discretion. Any subsidy and the characterization thereof will be disclosed as a line item in the annual budget prepared by the Board and attributable to such Assessments. The payment of a subsidy in any given year will not obligate Declarant to continue payment of a subsidy to the Association in future years.

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

5.03 **Regular Annual Assessments.** Prior to the beginning of each fiscal year, the Board will estimate the expenses to be incurred by the Association during such year in performing its functions and exercising its powers under this Covenant, including, but not limited to, the cost of all management, repair and maintenance, the cost of providing street and other lighting, the cost of administering and enforcing the covenants and restrictions contained herein, and will estimate the amount needed to maintain a reasonable provision for contingencies and an appropriate replacement reserve, and will give due consideration to any expected income and any surplus from the prior year's fund. The budget prepared by the Association for the purpose of determining Regular Annual Assessments will exclude the

maintenance, repair and management costs and expenses associated with any Service Area and Special Common Area. Assessments sufficient to pay such estimated net expenses will then be levied at the level of Assessments set by the Board in its sole and absolute discretion, and the Board's determination will be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any individual Assessment, the Association may at any time, and from time to time, levy further Assessments in the same manner. All such regular Assessments will be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion.

5.04 **Special Common Area Assessments.** Prior to the beginning of each fiscal year, the Board will prepare a separate budget covering the estimated expenses to be incurred by the Association to maintain, repair, or manage any Special Common Area. The budget will be an estimate of the amount needed to maintain, repair and manage such Special Common Area including a reasonable provision for contingencies and an appropriate replacement reserve, and will give due consideration to any expected income and surplus from the prior year's fund. The level of Special Common Area Assessments will be set by the Board in its sole and absolute discretion, and the Board's determination will be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including non-payment of any individual Special Common Area Assessment, the Association may at any time, and from time to time, levy further Special Common Area Assessments in the same manner as aforesaid. All such Special Common Area Assessments will be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion.

5.05 **Service Area Assessments**. Prior to the beginning of each fiscal year, the Board will prepare a separate budget for each Service Area reflecting the estimated Service Area Expenses to be incurred by the Association in the coming year. The total amount of estimated Service Area Expenses for each Service Area will be allocated equally among all Lots and/or Condominium Units in the benefited Service Area and will be levied as a Service Area Assessment. All amounts that the Association collects as Service Area Assessments will be held in trust for and expended solely for the benefit of the Service Area for which they were collected and will be accounted for separately from the Association's general funds.

5.06 **Special Assessments.** In addition to the regular annual Assessments provided for above, the Board may levy special Assessments whenever in the Board's opinion such special Assessments are necessary to enable the Board to carry out the functions of the Association under this Covenant. The amount of any special Assessments will be at the reasonable discretion of the Board. In addition to the special Assessments authorized above, the Association may, in any fiscal year, levy a special Assessment applicable to that fiscal 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 upon the Common Area or Special Common

Area. Any special Assessment levied by the Association for the purpose of defraying, in whole or in part, costs of any construction, reconstruction, repair or replacement of capital improvement upon the Common Area will be levied against all Owners based on Assessment Units. Any special Assessments levied by the Association for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon any Special Common Area will be levied against all Owners who have been designated as a beneficiary of such Special Common Area and will be allocated among such Owners based on Assessment Units.

5.07 **Individual Assessments.** In addition to any other Assessments, the Board may levy an Individual Assessment against an Owner and the Owner's Lot or Condominium Unit. Individual Assessments may include, but are not limited to: interest, late charges, and collection costs on delinquent Assessments; reimbursement for costs incurred in bringing an Owner or the Owner's Lot or Condominium Unit into compliance with the Master Restrictions; fines for violations of the Master Restrictions; transfer-related fees and resale certificate fees; fees for estoppel letters and project documents; insurance deductibles; reimbursement for damage or waste caused by willful or negligent acts of the Owner, the Owner's guests, invitees or residents of the Owner's Lot; common expenses that benefit fewer than all of the Lots or Condominium Units, which may be assessed according to benefit received; fees or charges levied against the Association on a per-Lot or per-Condominium Unit basis; and "pass through" expenses for services to Lots or Condominium Units provided through the Association and which are equitably paid by each Lot or Condominium Unit according to benefit received.

5.08 **Amount of Assessment.**

(a) The Board will levy Assessments against each "Assessment Unit" (as defined in *Section 5.08(b)* below). Unless otherwise provided in this Covenant, Assessments levied pursuant to *Section 5.03* and *Section 5.06* will be levied uniformly against each Lot and Condominium Unit based on the Assessment Units allocated thereto. For example, if the total regular Assessments to be levied by the Board during any fiscal year is equal to $10,000, and the regular Assessment is to be allocated among one hundred (100) Lots each being allocated one (1) Assessment Unit and one hundred (100) Condominium Units each being allocated 0.7 Assessment Units, the regular Assessment for each Assessment Unit would be equal to $58.82 ($10,000 ÷ 170 Assessment Units). Special Common Area Assessments levied pursuant to *Section 5.04* will be levied uniformly against each Lot and Condominium Unit which has been designated as a beneficiary of the Special Common Area to which such Special Common Area Assessment relates based on the Assessment Units allocated to such Lots and Condominium Units. Service Area Assessments levied pursuant to *Section 5.05* will be levied uniformly against each Lot and Condominium Unit which has been included in the Service Area to which such Service Area Assessment relates based on the Assessment Units allocated to such Lots and Condominium Units.

(b) Each Lot will constitute one "Assessment Unit" unless otherwise provided in *Section 5.08(c)*. Each Condominium Unit will constitute that number of "Assessment Units" as determined by Declarant at the time that the Development Area Declaration is first recorded in the Official Public Records of Bexar County, Texas for the Development Area within which such Condominium Unit is located. Declarant will determine such Assessment Units in its sole and absolute discretion, taking into account, among other things, the relationship of such Condominium Units to the entire Development. Declarant's determination regarding the number of Assessment Units applicable to each Condominium Unit will be final, binding and conclusive. Such determination of Declarant (or the Board, as the case may be) may also be set forth in the notice filed by Declarant pursuant to *Section 9.05* for the Development Area within which such Condominium Unit(s) are located. Declarant, in its sole and absolute discretion, may modify or amend the number of Assessment Units previously assigned to a Condominium Unit if the Improvements actually constructed on the Condominium Unit differ substantially from the Improvements contemplated to be constructed thereon at the time the notice allocating Assessment Units thereto was originally filed. In the event of a modification to the Assessment Units allocated to a Condominium Unit, Declarant will file of record an amended notice setting forth the revised Assessment Units attributable to the Condominium Unit.

(c) Declarant, in Declarant's sole and absolute discretion, may elect to allocate more than one "Assessment Unit" to a Lot. An allocation of more than one Assessment Unit to a Lot must be made in a notice filed by Declarant pursuant to *Section 9.05* or in a Development Area Declaration for the Development in which the Lot is located. Declarant's determination regarding the number of Assessment Units applicable to a Lot pursuant to this *Section 5.08(c)* will be final, binding and conclusive.

(d) Prior to the time any Lots or Condominium Units in such Development Area are conveyed to any person not affiliated with Declarant, Declarant may modify its determination regarding the allocation of Assessment Units by filing a notice in the Official Public Records of Bexar County, Texas, setting forth the amended allocation.

(e) Notwithstanding anything in this Covenant to the contrary, no Assessments will be levied upon Lots or Condominium Units owned by Declarant.

(f) Declarant may, in its sole discretion, elect to: (i) exempt any platted, unplatted, improved, or unimproved portion of the Development, Lot or Condominium Unit from Assessments; or (ii) delay the levy of Assessments against any platted, unplatted, unimproved or improved portion of the Development, Lot or Condominium Unit.

5.09 **Late Charges.** If any Assessment is not paid by the due date applicable thereto, the Owner responsible for the payment may be required by the Board, at the Board's election at any time and from time to time, to pay a late charge in such amount as the Board may

designate, and the late charge (and any reasonable handling costs) will be a charge upon the Lot or Condominium Unit owned by such Owner, collectible in the manner as provided for collection of Assessments, including foreclosure of the lien against such Lot or Condominium Unit; provided, however, such charge will never exceed the maximum charge permitted under applicable law.

5.10 **Owner's Personal Obligation for Payment of Assessments.** Assessments levied as provided for herein will be the personal and individual debt of the Owner of the Lot or Condominium Unit against which are levied such Assessments. No Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any such Assessment, the Owner of the Lot or Condominium Unit will be obligated to pay interest on the amount of the Assessment at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from the due date therefor (or if there is no such highest rate, then at the rate of 1 and 1/2% per month), together with all costs and expenses of collection, including reasonable attorneys fees.

5.11 **Application of Payments.** The Association may adopt and amend policies regarding the application of payments. After the Association notifies the Owner of a delinquency, any payment received by the Association may be applied in the following order: Individual Assessments, Special Assessments, Service Area Assessments, Special Common Area Assessments and (lastly) Regular Annual Assessments. The Association may refuse to accept partial payment, *i.e.*, less than the full amount due and payable. The Association may also refuse to accept payments to which the payer attaches conditions or directions contrary to the Association's policy for applying payments. The Association's policy may provide that endorsement and deposit of a payment does not constitute acceptance by the Association, and that acceptance occurs when the Association posts the payment to the Owner's account.

5.12 **Assessment Lien and Foreclosure.** The payment of all sums assessed in the manner provided in this *Article 5* is, together with late charges as provided in *Section 5.09* and interest as provided in *Section 5.10* hereof and all costs of collection, including attorney's fees as herein provided, secured by the continuing Assessment lien granted to the Association pursuant to *Section 5.01(b)* above, and will bind each Lot or Condominium Unit in the hands of the Owner thereof, and such Owner's heirs, devisees, personal representatives, successors or assigns. The aforesaid lien will be superior to all other liens and charges against such Lot or Condominium Unit, except only for tax liens and all sums secured by a first mortgage lien or first deed of trust lien of record, to the extent such lien secures sums borrowed for the acquisition or improvement of the Lot or Condominium Unit in question, provided such Mortgage was recorded in the Official Public Records of Bexar County, Texas before the delinquent Assessment was due. The Association will have the power to subordinate the aforesaid Assessment lien to any other lien. Such power will be entirely discretionary with the Board, and such subordination may be signed by an officer of the Association. The Association may, at its option and without prejudice to the priority or enforceability of the Assessment lien granted hereunder, prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot or Condominium Unit covered by such

lien and a description of the Lot or Condominium Unit. Such notice may be signed by one of the officers of the Association and will be recorded in the Official Public Records of Bexar County, Texas. Each Owner, by accepting a deed or ownership interest to a Lot or Condominium Unit subject to this Covenant will be deemed conclusively to have granted a power of sale to the Association to secure and enforce the Assessment lien granted hereunder. Such lien for payment of Assessments may be enforced by the non-judicial foreclosure of the defaulting Owner's Lot or Condominium Unit by the Association in like manner as a real property mortgage with power of sale under Tex. Prop. Code § 51.002. (For such purpose, Robert D. Burton of Travis County, Texas, is hereby designated as trustee for the benefit of the Association, with the Association retaining the power to remove any trustee with or without cause and to appoint a successor trustee without the consent or joinder of any other person.) The Assessment liens and rights to foreclosure thereof will be in addition to and not in substitution of any other rights and remedies the Association may have by law and under this Covenant, including the rights of the Association to institute suit against such Owner personally obligated to pay the Assessment and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or non-judicial, such Owner will be required to pay the costs, expenses and reasonable attorney's fees incurred. The Association will have the power to bid (in cash or by credit against the amount secured by the lien) on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the Association will report to said Mortgagee any unpaid Assessments remaining unpaid for longer than thirty (30) days after the same are due. The lien hereunder will not be affected by the sale or transfer of any Lot or Condominium Unit; except, however, that in the event of foreclosure of any first-lien Mortgage securing indebtedness incurred to acquire such Lot or Condominium Unit, the lien for any Assessments that were due and payable before the foreclosure sale will be extinguished, provided that past-due Assessments will be paid out of the proceeds of such foreclosure sale only to the extent that funds are available after the satisfaction of the indebtedness secured by the first lien Mortgage. The provisions of the preceding sentence will not, however, relieve any subsequent Owner (including any Mortgagee or other purchaser at a foreclosure sale) from paying Assessments becoming due and payable after the foreclosure sale. Upon payment of all sums secured by a lien of the type described in this *Section 5.12*, the Association will upon the request of the Owner execute a release of lien relating to any lien for which written notice has been filed as provided above, except in circumstances in which the Association has already foreclosed such lien. Such release will be signed by an officer of the Association. **NOTWITHSTANDING ANY PROVISION IN THIS *SECTION 5.12* TO THE CONTRARY, THE ASSOCIATION WILL NOT HAVE THE AUTHORITY TO FORECLOSE ON A CONDOMINIUM UNIT FOR NON-PAYMENT OF ASSESSMENTS IF THE ASSESSMENTS CONSIST SOLELY OF FINES.** In addition to the lien hereby retained, in the event of nonpayment by any Owner of any Assessment and after the lapse of at least twelve (12) days since such payment was due, the Association may, upon five (5) days' prior written notice (which may run concurrently with such 12 day period) to such Owner, in addition to all other rights and remedies available at law, equity or otherwise, terminate, in such manner as the Board deems appropriate, any service provided under a Bulk Rate Contract or any other service

provided by the Association, including but not limited to utility or cable services, provided through the Association and not paid for directly by a Owner or occupant to the utility or service provider. Such notice will consist of a separate mailing or hand delivery at least five (5) days prior to a stated date of disconnection, with the title "termination notice" or similar language prominently displayed on the notice. The notice will include the office or street address where the Owner or the Owner's tenant can make arrangements for payment of the bill and for reconnection of service. Any utility or cable service will not be disconnected or terminated on a day, or immediately preceding a day, when personnel are not available for the purpose of collection and reconnecting such services. Except as otherwise provided by applicable law, the sale or transfer of a Lot or Condominium Unit will not relieve the Owner of such Lot or Condominium Unit or such Owner's transferee from liability for any Assessments thereafter becoming due or from the lien associated therewith. If an Owner conveys its Lot or Condominium Unit and on the date of such conveyance Assessments against the Lot or Condominium Unit remain unpaid, or said Owner owes other sums or fees under this Covenant to the Association, the Owner will pay such amounts to the Association out of the sales price of the Lot or Condominium Unit, and such sums will be paid in preference to any other charges against the Lot or Condominium Unit other than a first lien Mortgage or Assessment Liens and charges in favor of the State of Texas or a political subdivision thereof for taxes on the Lot or Condominium Unit which are due and unpaid. The Owner conveying such Lot or Condominium Unit will remain personally liable for all such sums until the same are fully paid, regardless of whether the transferee of the Lot or Condominium Unit also assumes the obligation to pay such amounts. The Board may adopt an administrative transfer fee to cover the administrative expenses associated with updating the Association's records upon the transfer of a Lot or Condominium Unit to a third party; provided, however, that no administrative transfer fee will be due upon the transfer of a Lot or Condominium Unit from Declarant to a third party.

Yes, the Association *can* foreclose on your Lot or Condominium Unit!
If you fail to pay assessments to the Association, you may lose title to your Lot or Condominium Unit if the Association forecloses its assessment lien.

5.13 **Exempt Property.** The following area within the Development will be exempt from the Assessments provided for in this Article:

(a) All area dedicated and accepted by public authority, by the recordation of an appropriate document in the Official Public Records of Bexar County, Texas;

(b) The Common Area and the Special Common Area; and

(c) Any portion of the Property or Development owned by Declarant.

(d) No portion of the Property will be subject to the terms and provisions of this Covenant, and no portion of the Property (or any owner thereof) will be obligated to pay assessments hereunder unless and until such Property has been made subject to the

terms of this Covenant by the filing of a notice of applicability in accordance with *Section 9.05* below.

5.14 **Fines and Damages Assessment.** The Board may assess fines against an Owner for violations of any restriction set forth in this Covenant, any Development Area Declaration, the Design Guidelines (if any), or any rules adopted by the Board which have been committed by an Owner, an occupant of the Owner's Lot or Condominium Unit, or the Owner or occupant's family, guests, employees, contractors, agents or invitees. Any fine and/or charge for damage levied in accordance with this *Section 5.14* will be considered an Assessment pursuant to this Covenant. Each day of violation may be considered a separate violation if the violation continues after written notice to the Owner. The Board may assess damage charges against an Owner for pecuniary loss to the Association from property damage or destruction of Common Area or Special Common Area or any facilities located by the Owner or the Owner's family, guests, agents, occupants, or tenants. The Manager will have authority to send notices to alleged violators, informing them of their violations and asking them to comply with the rules and/or informing them of potential or probable fines or damage assessments. The Board may from time to time adopt a schedule of fines.

The procedure for assessment of fines and damage charges will be as follows:

(a) the Association, acting through an officer, Board member or Manager, must give the Owner notice of the fine or damage charge not later than thirty (30) days after the assessment of the fine or damage charge by the Board;

(b) the notice of the fine or damage charge must describe the violation or damage;

(c) the notice of the fine or damage charge must state the amount of the fine or damage charge;

(d) the notice of a fine or damage charge must state that the Owner will have thirty (30) days from the date of the notice to request a hearing before the Board to contest the fine or damage charge; and

(e) the notice of a fine must allow the Owner a reasonable time, by a specified date, to cure the violation (if the violation is capable of being remedied) and avoid the fine unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six (6) months.

Fine and/or damage charges are due immediately after the expiration of the thirty (30) day period for requesting a hearing. If a hearing is requested, such fines or damage charges will be due immediately after the Board's decision at such hearing, assuming that a fine or damage charge of some amount is confirmed by the Board at such hearing.

The payment of each fine and/or damage charge levied by the Board against the Owner of a Lot or Condominium Unit is, together with interest as provided in *Section 5.10* hereof and all costs of collection, including attorney's fees as herein provided, secured by the lien granted to the Association pursuant to *Section 5.01(b)* of this Covenant. Unless otherwise provided in this *Section 5.14*, the fine and/or damage charge will be considered an Assessment for the purpose of this Article, and will be enforced in accordance with the terms and provisions governing the enforcement of assessments pursuant to this *Article 5*.

5.15 **Working Capital Assessment**. Each Owner (other than Declarant) of a Lot or a Condominium Unit will pay a one-time working capital assessment to the Association in such amount as may be determined by the Board from time to time in its sole and absolute discretion. Such working capital assessment need not be uniform among all Lots and/or Condominium Units, and the Board is expressly authorized to levy working capital assessments of varying amounts depending on the size, use and general character of the Lots and/or Condominium Units then being made subject to such levy. The levy of any working capital assessment will be effective only upon the recordation in the Official Public Records of Bexar County, Texas of a written notice, signed by a duly authorized officer of the Association, setting forth the amount of the working capital assessment and the Lots and/or Condominium Units to which it applies.

Notwithstanding the foregoing provision, the following transfers will not be subject to the working capital assessment: (i) foreclosure of a deed of trust lien, tax lien, or the Association's assessment lien; (ii) transfer to, from, or by the Association; (iii) voluntary transfer by an Owner to one or more co-owners, or to the Owner's spouse, child, or parent. Additionally, an Owner who (i) is a Homebuilder; or (ii) a Development Owner will not be subject to the working capital assessment; however, the working capital assessment will be payable by any Owner who acquires a Lot and/or a Condominium Unit from a Homebuilder or Development Owner for residential living purposes or by any Owner who: (i) acquires a Lot and/or a Condominium Unit and is not in the business of constructing single-family residences for resale to a third party; or (ii) who acquires the Lot for any purpose other than constructing a single-family residence (including a Condominium Unit) thereon for resale to a third party. In the event of any dispute regarding the application of the working capital assessment to a particular Owner, Declarant's determination regarding application of the exemption will be binding and conclusive without regard to any contrary interpretation of this *Section 5.15*. The working capital assessment will be in addition to, not in lieu of, any other assessments levied in accordance with this *Article 5* and will not be considered an advance payment of such assessments. The working capital assessment hereunder will be due and payable to the Association immediately upon each transfer of title to the Lot or Condominium Unit, including upon transfer of title from one Owner of such Lot or Condominium Unit to any subsequent purchaser or transferee thereof. The Association will have the power to waive the payment of any working capital assessment attributable to a Lot or Condominium Unit by the recordation in the Official Public Records of Bexar County, Texas of a waiver notice executed by a majority of the Board members of the Association.

ARTICLE VI
ESTONIA REVIEWER

6.01 **Purpose**. This Covenant creates rights to regulate the design, use, and appearance of the Lots in order to preserve and enhance the Property's value and architectural harmony. One purpose of this Article is to promote and ensure the level of taste, design, quality, and harmony by which the Property is developed and maintained. Another purpose is to prevent Improvements and modifications that may be widely considered to be radical, curious, odd, bizarre, or peculiar in comparison to the then existing improvements. A third purpose is to regulate the appearance of every aspect of proposed or existing Improvements, including but not limited to dwellings, buildings, fences, landscaping, retaining walls, yard art, sidewalks, and driveways, and further including replacements or modifications of original construction or installation. During the Development and Sale Period, a primary purpose of this Article is to reserve and preserve Declarant's right of architectural control. Until expiration of the Development and Sale Period, a primary purpose of this Article is to reserve and preserve Declarant's right of architectural control.

6.02 **Estonia Reviewer.** The purposes of this Article shall be undertaken by the Estonia Reviewer. Until expiration or termination of the Development and Sale Period, the Estonia Reviewer shall mean Declarant or its designee. Upon expiration or termination of the Development and Sale Period, the rights of the Estonia Reviewer will automatically be transferred to the Architectural Control Committee appointed by the Board as provided in *Section 6.04* below. In furtherance of the purposes of this Article, the Estonia Reviewer may, but will not be obligated to, adopt Design Guidelines as more fully set forth in *Section 6.06(b)* below.

6.03 **Architectural Control By Declarant**. During the Development and Sale Period, neither the Association, the Board, nor a committee appointed by the Association or Board (no matter how the committee is named) may involve itself with the approval of any Improvements. Until expiration of the Development and Sale Period, the Estonia Reviewer for Improvements is Declarant or its designee.

(a) Declarant's Rights Reserved. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees that Declarant has a substantial interest in ensuring that the improvements within the Property enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market its property. Accordingly, each Owner agrees that during the Development and Sale Period no Improvements will be started or progressed without the prior written approval of Declarant, which approval may be granted or withheld at Declarant's sole discretion. In reviewing and acting on an application for approval, Declarant may act solely in its self-interest and owes no duty to any other person or any organization. Declarant may designate one or more persons from time to time to act on its behalf in reviewing and responding to applications.

(b) Delegation by Declarant. During the Development and Sale Period, Declarant may from time to time, but is not obligated to, delegate all or a portion of its reserved rights under this Article to an architectural control committee appointed by the Board or a committee comprised of architects, engineers, or other persons who may or may not be members of the Association. Any such delegation must be in writing and must specify the scope of delegated responsibilities. Any such delegation is at all times subject to the unilateral rights of Declarant to: (a) revoke such delegation at any time and reassume jurisdiction over the matters previously delegated; and (b) to veto any decision which Declarant in its sole discretion determines to be inappropriate or inadvisable for any reason.

6.04 **Architectural Control by Association**. Unless and until such time as Declarant delegates all or a portion of its reserved rights to the Board, or the Development and Sale Period is terminated or expires, the Association has no jurisdiction over architectural matters. On termination or expiration of the Development and Sale Period, or earlier if delegated in writing by Declarant, the Association, acting through an architectural control committee (the "**ACC**") will assume jurisdiction over architectural control and will have the powers of the Estonia Reviewer hereunder.

(a) ACC. The ACC will consist of at least three (3) but not more than seven (7) persons appointed by the Board, pursuant to the bylaws of the Association. Members of the ACC serve at the pleasure of the Board and may be removed and replaced at the Board's discretion. At the Board's option, the Board may act as the ACC, in which case all references in the Documents to the ACC will be construed to mean the Board. Members of the ACC need not be Owners or Residents, and may but need not include architects, engineers, and design professionals whose compensation, if any, may be established from time to time by the Board.

(b) Limits on Liability. The ACC has sole discretion with respect to taste, design, and all standards specified by this Article. The members of the ACC have no liability for the ACC's decisions made in good faith, and which are not arbitrary or capricious. The ACC is not responsible for: (i) errors in or omissions from the plans and specifications submitted to the ACC; (ii) supervising construction for the Owner's compliance with approved plans and specifications; or (iii) the compliance of the Owner's plans and specifications with governmental codes and ordinances, state and federal laws.

6.05 **Prohibition of Construction, Alteration and Improvement**. No Improvement, or any addition, alteration, improvement, installation, modification, redecoration, or reconstruction thereof may occur unless approved in advance by the Estonia Reviewer. The Estonia Reviewer has the right but not the duty to evaluate every aspect of construction, landscaping, and property use that may adversely affect the general value or appearance of the Property. Notwithstanding the foregoing, each Owner will have the right to modify, alter,

repair, decorate, redecorate, or improve the interior of an Improvement, provided that such action is not visible from any other portion of the Development or Property.

NO IMPROVEMENT MAY BE CONSTRUCTED, ALTERED, OR MODIFIED WITHOUT THE ADVANCE WRITTEN APPROVAL OF THE ESTONIA REVIEWER.

6.06 **Architectural Approval**.

(a) Submission and Approval of Plans and Specifications. Construction plans and specifications or, when an Owner desires solely to re-subdivide or consolidate Lots, a proposal for such re-subdivision or consolidation, will be submitted in accordance with the Design Guidelines (if any) or any additional rules adopted by the Estonia Reviewer together with any review fee which is imposed by the Estonia Reviewer in accordance with *Section 6.06(b)*. No re-subdivision or consolidation will be made, nor any Improvement placed or allowed on any Lot, until the plans and specifications and the builder which the Owner intends to use to construct the proposed structure or Improvement have been approved in writing by the Estonia Reviewer. The Estonia Reviewer may, in reviewing such plans and specifications consider any information that it deems proper; including, without limitation, any permits, environmental impact statements or percolation tests that may be required by the Estonia Reviewer or any other entity; and harmony of external design and location in relation to surrounding structures, topography, vegetation, and finished grade elevation. The Estonia Reviewer may postpone its review of any plans and specifications submitted for approval pending receipt of any information or material which the Estonia Reviewer, in its sole discretion, may require. Site plans must be approved by the Estonia Reviewer prior to the clearing of any Lot, or the construction of any Improvements. The Estonia Reviewer may refuse to approve plans and specifications for proposed Improvements, or for the re-subdivision or consolidation of any Lot on any grounds that, in the sole and absolute discretion of the Estonia Reviewer, are deemed sufficient, including, but not limited to, purely aesthetic grounds.

(b) Design Guidelines; Review Fee. Declarant will have the power, but will not be obligated, to adopt the initial Design Guidelines. The Estonia Reviewer will have the power, but will not be obligated, from time to time to adopt (unless previously adopted by Declarant), amend, modify, or supplement the Design Guidelines. In the event of any conflict between the terms and provisions of the Design Guidelines and the terms and provisions of this Covenant, the terms and provisions of this Covenant will control. In addition, the Estonia Reviewer will have the power and authority to impose a fee for the review of plans, specifications and other documents and information submitted to it pursuant to the terms of this Covenant. Such charges will be held by the Estonia Reviewer and used to defray the administrative expenses incurred by the Estonia Reviewer in performing its duties hereunder; provided, however, that any excess funds held by the Estonia Reviewer will be distributed to the Association at the

end of each calendar year. The Estonia Reviewer will not be required to review any plans until a complete submittal package, as required by this Covenant and the Design Guidelines, is assembled and submitted to the Estonia Reviewer. The Estonia Reviewer will have the authority to adopt such additional procedural and substantive rules and guidelines (including, without limitation, the imposition of any requirements for a compliance deposit, certificates of compliance or completion relating to any Improvement, and the right to approve in advance any contractor selected for the construction of Improvements), not in conflict with this Covenant, as it may deem necessary or appropriate in connection with the performance of its duties hereunder.

(c) Failure to Act. In the event that any plans and specifications are submitted to the Estonia Reviewer as provided herein, and the Estonia Reviewer fails to either approve or reject such plans and specifications for a period of sixty (60) days following such submission, the plans and specifications will be deemed disapproved.

(d) Variances. The Estonia Reviewer may grant variances from compliance with any of the provisions of this Covenant, any Development Area Declaration or the Design Guidelines (if any), including, but not limited to, restrictions upon impervious cover, height, size, shape, floor areas, land area, placement of structures, set-backs, building envelopes, colors, materials, or land use, when, in the opinion of the Estonia Reviewer, in its sole and absolute discretion, such variance is justified. All variances must be evidenced in writing and, if Declarant has assigned its rights to the ACC, must be approved by at least a majority of the members of the ACC. Each variance must also be recorded in the Official Public Records of Bexar County, Texas; provided, however, that failure to record a variance will not affect the validity thereof or give rise to any claim or cause of action against the Estonia Reviewer, Declarant, the Board or the ACC. If a variance is granted, no violation of the covenants, conditions, or restrictions contained in this Covenant or any Development Area Declaration will be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance will not operate to waive or amend any of the terms and provisions of this Covenant, or any Development Area Declaration, for any purpose except as to the particular property and in the particular instance covered by the variance, and such variance will not be considered to establish a precedent for any future waiver, modification, or amendment of the terms and provisions of this Covenant or any Development Area Declaration.

(e) Duration of Approval. The approval of the Estonia Reviewer of any final plans and specifications, and any variances granted by the Estonia Reviewer will be valid for a period of one hundred and twenty (120) days only. If construction in accordance with such plans and specifications or variance is not commenced within such one hundred and twenty (120) day period and diligently prosecuted to completion thereafter, the Owner will be required to resubmit such final plans and specifications or request for a variance to the Estonia Reviewer, and the Estonia Reviewer will have the authority to re-evaluate such plans and specifications in accordance with this *Section*

6.06(e) and may, in addition, consider any change in circumstances which may have occurred since the time of the original approval.

(f) No Waiver of Future Approvals. The approval of the Estonia Reviewer to any plans or specifications for any work done or proposed in connection with any matter requiring the approval or consent of the Estonia Reviewer will not be deemed to constitute a waiver of any right to withhold approval or consent as to any plans and specifications on any other matter, subsequently or additionally submitted for approval by the same or a different person, nor will such approval or consent be deemed to establish a precedent for future approvals by the Estonia Reviewer.

(g) Non-Liability of Estonia Reviewer. **THE ESTONIA REVIEWER WILL NOT BE LIABLE TO ANY OWNER OR TO ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR INJURY ARISING OUT OF THE PERFORMANCE OF THE ESTONIA REVIEWER'S DUTIES UNDER THIS COVENANT, UNLESS SUCH LOSS, DAMAGE, OR INJURY IS DUE TO THE WILLFUL MISCONDUCT OR BAD FAITH OF THE ESTONIA REVIEWER OR ONE OR MORE INDIVIDUALS ACTING ON ITS BEHALF, AS THE CASE MAY BE.**

ARTICLE VII
MORTGAGE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Lots or Condominium Units within the Development. The provisions of this Article apply to the Covenant and the Bylaws of the Association.

7.01 **Notice of Action.** An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot or Condominium Unit to which its Mortgage relates (thereby becoming an "**Eligible Mortgage Holder**"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Development or which affects any Lot or Condominium Unit on which there is an Eligible Mortgage held, insured, or guaranteed by such Eligible Mortgage Holder; or

(b) Any delinquency in the payment of assessments or charges owed for a Lot or Condominium Unit subject to the Mortgage of such Eligible Mortgage Holder, where such delinquency has continued for a period of sixty (60) days, or any other violation of the Master Restrictions relating to such Lot or Condominium Unit or the Owner or occupant which is not cured within sixty (60) days; or

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

7.02 **Examination of Books.** The Association will permit Mortgagees to examine the books and records of the Association during normal business hours.

7.03 **Taxes, Assessments and Charges.** All taxes, assessments and charges that may become liens prior to first lien mortgages under applicable law will relate only to the individual Lots or Condominium Units and not to any other portion of the Development.

ARTICLE VIII
EASEMENTS

8.01 **Right of Ingress and Egress.** Declarant, its agents, employees and designees will have a right of ingress and egress over and the right of access to the Common Area and Special Common Area to the extent necessary to use the Common Area and Special Common Area and the right to such other temporary uses of the Common Area and Special Common Area as may be required or reasonably desirable (as determined by Declarant in its sole discretion) in connection with the construction and development of the Development.

8.02 **Reserved Easements.** All dedications, limitations, restrictions and reservations shown on any Plat and all grants and dedications of easements, rights-of-way, restrictions and related rights made by Declarant prior to the Development becoming subject to this Covenant are incorporated herein by reference and made a part of this Covenant for all purposes as if fully set forth herein, and will be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant. Declarant reserves the right to relocate, make changes in, and additions to said easements, rights-of-way, dedications, limitations, reservations and grants for the purpose of most efficiently and economically developing the Development.

8.03 **Utility Easements.** Declarant hereby reserves unto itself and Declarant's successors and assigns a perpetual non-exclusive easement over and across the Development for: (i) the installation, operation and maintenance of utilities and associated infrastructure to serve the Development and any other property owned by Declarant; (ii) the installation, operation and maintenance of cable lines and associated infrastructure for sending and receiving data and/or other electronic signals, security and similar services to serve the Development and any other property owned by Declarant; and (iii) the installation, operation and maintenance of, walkways, pathways and trails, drainage systems, street lights and signage to serve the Development and any other property owned by Declarant. Declarant will be entitled to unilaterally assign the easements reserved hereunder to any third party who owns, operates or maintains the facilities and improvements described in (i) through (iii) of this *Section 8.03*. The exercise of the easement reserved herein will not extend to permitting entry into any residence, nor will it unreasonably interfere with the use of any Lot or Condominium Unit or residence or Improvement constructed thereon.

8.04 **Subdivision Entry and Perimeter Fencing Easement.** Declarant hereby reserves for itself and the Association, an easement over and across the Development for the installation,

maintenance, repair or replacement of certain subdivision entry facilities and perimeter fencing which serves the Development. Declarant will have the right, from time to time, to record a written notice in the Official Public Records of Bexar County, Texas, which identifies the subdivision entry facilities and perimeter fencing to which the easement reserved hereunder applies. Declarant may designate all or any portion of the subdivision entry facilities and perimeter fencing as Common Area or Special Common Area by written notice recorded in the Official Public Records of Bexar County, Texas. The exercise of the easements reserved hereunder will not extend to permitting entry into any residence, nor will it unreasonably interfere with the use of any Lot or Condominium Unit or Improvement constructed thereon.

8.05 **Easements for Special Events.** Declarant reserves for itself and the Association, and their successors, assigns, and designees, a perpetual, non-exclusive easement over the Common Area or applicable Special Common Area for the purpose of conducting parades; running, sailing, fishing, biking or other sporting events; educational, cultural, artistic, musical and entertainment activities; and other activities of general community interest at such locations and times as Declarant or the Association, in their reasonable discretion, deem appropriate. Each Owner, by accepting a deed or other instrument conveying any interest in a Lot or Condominium Unit, acknowledges and agrees that the exercise of this easement may result in a temporary increase in traffic, noise, gathering of crowds, and related inconveniences, and each Owner agrees on behalf of itself and the occupants of its Unit to take no action, legal or otherwise, which would interfere with the exercise of such easement.

8.06 **Declarant as Attorney in Fact.** To secure and facilitate Declarant's exercise of the rights reserved by Declarant pursuant to the terms and provisions of this Covenant, each Owner, by accepting a deed to a Lot or Condominium Unit and each Mortgagee, by accepting the benefits of a Mortgage against a Lot or Condominium Unit, and any other third party by acceptance of the benefits of a mortgage, deed of trust, mechanic's lien contract, mechanic's lien claim, vendor's lien and/or any other security interest against any Lot or Condominium Unit, will thereby be deemed to have appointed Declarant such Owner's, Mortgagee's, and third party's irrevocable attorney-in-fact, with full power of substitution, to do and perform, each and every act permitted or required to be performed by Declarant pursuant to the terms of this Covenant. The power thereby vested in Declarant as attorney-in-fact for each Owner, Mortgagee and/or third party, will be deemed, conclusively, to be coupled with an interest and will survive the dissolution, termination, insolvency, bankruptcy, incompetency and death of an Owner, Mortgagee and/or third party and will be binding upon the legal representatives, administrators, executors, successors, heirs and assigns of each such party.

ARTICLE IX
DEVELOPMENT RIGHTS

9.01 **Development by Declarant.** It is contemplated that the Development will be developed pursuant to a coordinated plan, which may, from time to time, be amended or modified. Declarant reserves the right, but will not be obligated, to designate Development Areas, to create and/or designate Lots, Special Common Areas and Common Areas and to

subdivide with respect to any of the Development pursuant to the terms of this *Section 9.01*, subject to any limitations imposed on portions of the Development by any applicable Plat. These rights may be exercised with respect to any portions of the Property in accordance with *Section* 9.05. As each area is developed or dedicated, Declarant may record one or more Development Area Declarations and designate the use, classification and such additional covenants, conditions and restrictions as Declarant may deem appropriate for that area. Any Development Area Declaration may provide its own procedure for the amendment of any provisions. All lands, Improvements, and uses in each area so developed will be subject to both this Covenant and the Development Area Declaration, if any, for that Area.

9.02 **Special Declarant Rights.** Notwithstanding any provision of this Covenant to the contrary, at all times, Declarant will have the right and privilege: (i) to erect and maintain advertising signs (illuminated or non-illuminated), sales flags, other sales devices and banners for the purpose of aiding the sale of Lots or Condominium Units in the Development; (ii) to maintain Improvements upon Lots as sales, model, management, business and construction offices; and (iii) to maintain and locate construction trailers and construction tools and equipment within the Development. The construction placement or maintenance of Improvements by Declarant will not be considered a nuisance, and Declarant hereby reserves the right and privilege for itself to conduct the activities enumerated in this *Section 9.02* until two (2) years after the expiration or termination of the Development and Sale Period.

9.03 **Addition of Land.** Declarant may, at any time and from time to time, add additional lands to the Property and, upon the filing of a notice of addition of land, such land will be considered part of the Property for purposes of this Covenant, and upon the further filing of a notice of applicability meeting the requirements of *Section 9.05* below, such added lands will be considered part of the Development subject to this Covenant and the terms, covenants, conditions, restrictions and obligations set forth in this Covenant, and the rights, privileges, duties and liabilities of the persons subject to this Covenant will be the same with respect to such added land as with respect to the lands originally covered by this Covenant. To add lands to the Property, Declarant will be required only to record in the Official Public Records of Bexar County, Texas, a notice of addition of land (which notice may be contained within any Development Area Declaration affecting such land) containing the following provisions:

(a) A reference to this Covenant, which reference will state the volume and initial page number of the Official Public Records of Bexar County wherein this Covenant is recorded;

(b) A statement that such land will be considered Property for purposes of this Covenant, and that upon the further filing of a notice of applicability meeting the requirements of *Section 9.05* of this Covenant, all of the terms, covenants, conditions, restrictions and obligations of this Covenant will apply to the added land; and

(c) A legal description of the added land.

9.04 **Withdrawal of Land.** Declarant may, at any time and from time to time, reduce or withdraw from the Property, including the Development, and remove and exclude from the burden of this Covenant and the jurisdiction of the Association: (i) any portions of the Development which have not been included in a Plat; (ii) any portion of the Development included in a Plat if Declarant owns all Lots described in such Plat; and (iii) any portions of the Development included in a Plat even if Declarant does not own all Lot(s) described in such Plat, provided that Declarant obtains the written consent of all other Owners of Lot(s) described in such Plat. Upon any such withdrawal and renewal this Covenant and the covenants conditions, restrictions and obligations set forth herein will no longer apply to the portion of the Development withdrawn. To withdraw lands from the Development hereunder, Declarant will be required only to record in the Official Public Records of Bexar County, Texas, a notice of withdrawal of land containing the following provisions:

(a) A reference to this Covenant, which reference will state the volume and initial page number of the Official Public Records of Bexar County wherein this Covenant is recorded;

(b) A statement that the provisions of this Covenant will no longer apply to the withdrawn land; and

(c) A legal description of the withdrawn land.

9.05 **Notice of Applicability.** Upon the filing in the Official Public Records of Bexar County, Texas, this Covenant serves to provide notice that at any time, and from time to time, all or any portion of the Property may be made subject to the terms, covenants, conditions, restrictions and obligations of this Covenant. This Covenant will apply to and burden a portion or portions of the Property upon the filing of a notice of applicability describing such Property by a legally sufficient description and expressly providing that such Property will be considered a part of the Development and will be subject to the terms, covenants conditions, restrictions and obligations of this Covenant. To be effective, a notice of applicability must be executed by Declarant and the record title owner of the Property being made subject to this Covenant if such Property is not owned by Declarant. Declarant may also cause a notice of applicability to be filed covering a portion of the Property for the purpose of encumbering such Property with this Covenant and any Development Area Declaration previously recorded by Declarant (which notice of applicability may amend, modify or supplement the restrictions, set forth in the Development Area Declaration, which will apply to such Property). To make the terms and provisions of this Covenant applicable to a portion of the Property, Declarant will be required only to cause a notice of applicability to be recorded containing the following provisions:

(a) A reference to this Covenant, which reference will state the volume and initial page number of the Official Public Records of Bexar County, Texas wherein this Covenant is recorded;

(b) A reference, if applicable, to the Development Area Declaration which will apply to such portion of the Property (with any amendment, modification, or supplementation of the restrictions set forth in the Development Area Declaration which will apply to such portion of the Property), which reference will state the volume and initial page number of the Official Public Records of Bexar County, Texas wherein the Development Area Declaration is recorded;

(c) A statement that all of the provisions of this Covenant will apply to such portion of the Property;

(d) A legal description of such portion of the Property; and

(e) If applicable, a description of any Special Common Area which benefits the Property and the beneficiaries of such Special Common Area.

NOTICE TO TITLE COMPANY

NO PORTION OF THE PROPERTY IS SUBJECT TO THE TERMS AND PROVISIONS OF THIS COVENANT AND THIS COVENANT DOES NOT APPLY TO ANY PORTION OF THE PROPERTY UNLESS A NOTICE OF APPLICABILITY DESCRIBING SUCH PROPERTY AND REFERENCING THIS COVENANT HAS BEEN RECORDED IN THE OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY, TEXAS.

9.06 **Assignment of Declarant's Rights.** Notwithstanding any provision in this Covenant to the contrary, Declarant may, by written instrument, assign, in whole or in part, any of its privileges, exemptions, rights, and duties under this Covenant to any person or entity and may permit the participation, in whole, in part, exclusively, or non-exclusively, by any other person or entity in any of its privileges, exemptions, rights, and duties hereunder.

ARTICLE X
DISPUTE RESOLUTION

10.01 **Agreement to Encourage Resolution of Disputes Without Litigation.**

(a) Declarant, the Association and its officers, directors, and committee members, all parties subject to this Covenant (collectively, the "**Bound Parties**"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Development without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in *Section 10.02* in a good faith effort to resolve such Claim.

(b) As used in this Article, the term "Claim" will refer to any claim, grievance or dispute arising out of or relating to:

(i) the interpretation, application, or enforcement of the Covenant, any Development Area Declaration, the Design Guidelines, the Certificate, Bylaws, and rules and regulations adopted by the Board; or

(ii) the rights, obligations, and duties of any Bound Party under the Covenant, any Development Area Declaration, the Design Guidelines, the Certificate, Bylaws, and rules and regulations adopted by the Board; or

(iii) the design or construction of improvements within the Development, other than matters of aesthetic judgment under *Article 6*, which will not be subject to review.

The following will not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in *Section 10.02*:

(1) any suit by the Association to collect assessments or other amounts due from any Owner; and

(2) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of this Covenant; and

(3) any suit which does not include Declarant or the Association as a party, if such suit asserts a Claim which

would constitute a cause of action independent of the Covenant, any Development Area Declaration, the Design Guidelines, the Certificate, Bylaws, and rules and regulations adopted by the Board; and

(4) any suit in which any indispensable party is not a Bound Party; and

(5) any suit as to which any applicable statute of limitations would expire within one hundred and eighty (180) days of giving the Notice required by *Section 10.02 (a)*, unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

10.02 **Dispute Resolution Procedures**.

(a) Notice. The Bound Party asserting a Claim ("**Claimant**") against another Bound Party ("**Respondent**") will give written notice to each Respondent and to the Board stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim; and

(ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises); and

(iii) the Claimant's proposed resolution or remedy; and

(iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent will make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) Mediation. If the parties have not resolved the Claim through negotiation within thirty (30) days of the date of the notice described in *Section 10.02(a)* (or within such other period as the parties may agree upon), the Claimant will have thirty (30) additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in Bexar County, Texas.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant will be deemed to have waived the Claim, and the Respondent will be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Parties do not settle the Claim within thirty (30) days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator will issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant will thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Party will bear its own costs of the mediation, including attorney's fees, and each Party will share equally all fees charged by the mediator.

(d) Settlement. Any settlement of the Claim through negotiation or mediation will be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award will, upon prevailing, be entitled to recover from the non-complying party (or if more than one noncomplying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

10.03 **Initiation of Litigation by Association.** In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association will not initiate any judicial or administrative proceeding unless first approved by a vote of the Members entitled to cast seventy-five percent (75%) of the votes in the Association, excluding the votes held by Declarant, except that no such approval will be required for actions or proceedings:

(a) initiated while Declarant owns any portion of the Property or the Development; or

(b) initiated to enforce the provisions of the Covenant, any Development Area Declaration, the Design Guidelines, the Certificate, Bylaws, and rules and regulations adopted by the Board, including collection of assessments and foreclosure of liens; or

(c) initiated to challenge *ad valorem* taxation or condemnation proceedings; or

(d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or

(e) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This Section will not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings except any such amendment will also be approved by Declarant until the expiration or termination of the Development and Sale Period.

ARTICLE XI
GENERAL PROVISIONS

11.01 **Term.** Upon the filing of a notice pursuant to *Section 9.05*, the terms, covenants, conditions, restrictions, easements, charges, and liens set out in this Covenant will run with and bind the portion of the Property described in such notice, and will inure to the benefit of and be enforceable by the Association, and every Owner, including Declarant, and their respective legal representatives, heirs, successors, and assigns, for a term beginning on the date this Covenant is recorded in the Official Records of Bexar County, Texas, and continuing through and including January 1, 2057, after which time this Covenant will be automatically extended for successive periods of ten (10) years unless a change (the word "change" meaning a termination, or change of term or renewal term) is approved in a resolution adopted by Members entitled to cast at least seventy percent (70%) of the total number of votes of the Association, voting in person or by proxy at a meeting duly called for such purpose, written notice of which will be given to all Members at least thirty (30) days in advance and will set forth the purpose of such meeting; provided, however, that such change will be effective only upon the recording of a certified copy of such resolution in the Official Public Records of Bexar County, Texas. Notwithstanding any provision in this *Section 11.01* to the contrary, if any provision of this Covenant would be unlawful, void, or voidable by reason of any Texas law restricting the period of time that covenants on land may be enforced, such provision will expire (twenty one) 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

11.02 **Eminent Domain.** In the event it becomes necessary for any public authority to acquire all or any part of the Common Area or Special Common Area for any public purpose during the period this Covenant is in effect, the Board is hereby authorized to negotiate with such public authority for such acquisition and to execute instruments necessary for that purpose. Should acquisitions by eminent domain become necessary, only the Board need be made a party, and in any event the proceeds received will be held by the Association for the benefit of the Owners. In the event any proceeds attributable to acquisition of Common Area are paid to Owners, such payments will be allocated on the basis of Assessment Units and paid jointly to the Owners and the holders of first Mortgages or deeds of trust on the respective Lot and/or Condominium Unit. In the event any proceeds attributable to acquisition of Special Common Area are paid to Owners who have been designated as a beneficiary of such Special Common Area, such payment will be allocated on the basis of Assessment Units and paid jointly to such Owners and the holders of first Mortgages or deeds of trust on the respective Lot and/or Condominium Unit.

11.03 **Amendment.** This Covenant may be amended or terminated by the recording in the Official Public Records of Bexar County, Texas, of an instrument executed and acknowledged by: (i) Declarant acting alone; or (ii) by the president and secretary of the Association setting forth the amendment and certifying that such amendment has been approved by Declarant (unless Declarant has relinquished such right by written instrument recorded in the Official Public Records of Bexar County, Texas) and Members entitled to cast at least seventy percent (70%) of the number of votes entitled to be cast by members of the Association. No amendment will be effective without the written consent of Declarant, its successors or assigns. Specifically, and not by way of limitation, Declarant may unilaterally amend this Covenant and any Development Area Declaration: (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on any Lot or Condominium Unit; (c) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on Lots and/or Condominium Units; or (d) to comply with any requirements promulgated by a local, state or governmental agency, including, for example, the Department of Housing and Urban Development.

11.04 **Roadway and Utility Easements.** Declarant reserves the right to locate, relocate, construct, erect, and maintain or cause to be located, relocated, constructed, erected, and maintained in and on any streets maintained by the Association, or areas conveyed to the Association, or areas reserved or held as Common Area or Special Common Area, roadways, sewer lines, water lines, electrical lines and conduits, and other pipelines, conduits, wires, and any public utility function beneath or above the surface of the ground with the right of access to the same at any time for the purposes of repair and maintenance.

11.05 **Enforcement.** The Association or Declarant will have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, charges and other terms now or hereafter imposed by the provisions of this Covenant. Failure to enforce any right, provision, covenant, or condition granted by this Covenant will not constitute a waiver of the right to enforce such right, provision, covenants or condition in the future.

11.06 **Higher Authority.** The terms and provisions of this Covenant are subordinate to federal and state law, and local ordinances. Generally, the terms and provisions of this Covenant are enforceable to the extent they do not violate or conflict with local, state, or federal law or ordinance.

NOTICE

Users of this Covenant, any Development Area Declaration, and the Design Guidelines should periodically review statutes and court rulings that may modify or nullify the terms and provisions of those documents or their enforcement, or which may create rights or duties not contemplated therein.

11.07 **Severability.** If any provision of this Covenant is held to be invalid by any court of competent jurisdiction, such invalidity will not affect the validity of any other provision of this Covenant, or, to the extent permitted by applicable law, the validity of such provision as applied to any other person or entity.

11.08 **Conflicts.** If there is any conflict between the provisions of this Covenant, the Certificate of Formation, the Bylaws, or any rules and regulations adopted pursuant to the terms of such documents, or any Development Area Declaration, the provisions of this Covenant will govern.

11.09 **Gender.** Whenever the context so requires, all words herein in the male gender will be deemed to include the female or neuter gender, all singular words will include the plural, and all plural words will include the singular.

11.10 **Acceptance by Grantees.** Each grantee of Declarant of a Lot, Condominium Unit, other real property interest in the Development, by the acceptance of a deed of conveyance, or each subsequent purchaser, accepts the same subject to all terms, restrictions, conditions, covenants, reservations, easements, liens and charges, and the jurisdiction rights and powers created or reserved by this Covenant or to whom this Covenant is subject, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared. Furthermore, each grantee agrees that no assignee or successor to Declarant hereunder will have any liability for any act or omission of Declarant which occurred prior to the effective date of any such succession or assignment. All impositions and obligations hereby imposed will constitute covenants running with the land within the Development, and will bind any person having at any time any interest or estate in the Development, and will inure to the benefit of each Owner in like manner as though the provisions of this Covenant were recited and stipulated at length in each and every deed of conveyance.

11.11 **Damage and Destruction.**

(a) Promptly after damage or destruction by fire or other casualty to all or any part of the Common Area or Special Common Area covered by insurance, the Board, or its duly authorized agent, will proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair of the damage. Repair, as used in this *Section 11.11(a)*, means repairing or restoring the Common Area or Special Common Area to substantially the same condition as existed prior to the fire or other casualty.

(b) Any damage to or destruction of the Common Area or Special Common Area will be repaired unless a majority of the Board decides within sixty (60) days after the casualty not to repair. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair, or both, are not made available to the Association within said period, then the period will be extended until such information will be made available.

(c) In the event that it should be determined by the Board that the damage or destruction of the Common Area or Special Common Area will not be repaired and no alternative Improvements are authorized, then the affected portion of the Common Area or Special Common Area will be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition.

(d) If insurance proceeds are paid to restore or repair any damaged or destroyed Common Area, and such proceeds are not sufficient to defray the cost of such repair or restoration, the Board will levy a Special Assessment, as provided in *Article 5*, against all Owners. Additional Assessments may be made in like manner at any time during or following the completion of any repair.

(e) If insurance proceeds are paid to restore or repair any damaged or destroyed Special Common Area, and such proceeds are not sufficient to defray the cost of such repair or restoration, the Board will levy a special Assessment, as provided in *Article 5*, against all Owners designated as a beneficiary of such Special Common Area. Additional Assessments may be made in like manner at any time during or following the completion of any repair.

(f) In the event that any proceeds of insurance policies are paid to Owners as a result of any damage or destruction to any Common Area, such payments will be allocated based on Assessment Units and paid jointly to the Owners and the holders of first Mortgages or deeds of trust on their Lots or Condominium Units.

(g) In the event that any proceeds of insurance policies are paid to Owners as a result of any damage or destruction to Special Common Area, such payments will be allocated based on Assessment Units and will be paid jointly to the Owners who have been designated as a beneficiary of such Special Common Area and the holders of first Mortgages or deeds of trust on their Lots or Condominium Units.

(h) In the event that any proceeds of insurance policies are paid to Owners, such payments will be allocated based on Assessment Units and will be paid jointly to the Owners and the holders of first Mortgages or deeds of trust on their Lots or Condominium Units.

11.12 **No Partition.** Except as may be permitted in this Covenant or amendments thereto, no physical partition of the Common Area or Special Common Area or any part will be permitted, nor will any person acquiring any interest in the Development or any part seek any such judicial partition unless the Development in question has been removed from the provisions of this Covenant pursuant to *Section 9.04*. This *Section 11.12* will not be construed to prohibit the Board from acquiring and disposing of tangible personal property or from acquiring title to real property that may or may not be subject to this Covenant, nor will this

provision be constructed to prohibit or affect the creation of a condominium regime in accordance with the Texas Uniform Condominium Act.

11.13 **View Impairment.** Neither the Declarant nor the Association guarantee or represent that any view over and across the Lots and/or Condominium Units, or any open space within the Development will be preserved without impairment. The Declarant and the Association shall have no obligation to relocate, prune, or thin trees or other landscaping. The Association (with respect to any Common Area or Special Common Area) will have the right to add trees and other landscaping from time to time, subject to applicable law. There shall be no express or implied easements for view purposes or for the passage of light and air.

11.14 **Safety and Security.** Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Community. The Master Association may, but shall not be obligated to, maintain or support certain activities within the Community designed to promote or enhance the level of safety or security which each person provides for himself or herself and his or her property. However, neither the Master Association nor the Master Declarant shall in any way be considered insurers or guarantors of safety or security within the Community, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including security monitoring systems or any mechanism or system for limiting access to the Community, cannot be compromised or circumvented; or that any such system or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing any tenants and other occupants of such Owner's Unit that the Master Association, its Board and committees, and the Master Declarant are not insurers or guarantors of security or safety and that each Person within the Community assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

11.15 **Notices.** Any notice permitted or required to be given to any person by this Covenant will be in writing and may be delivered either personally or by mail. If delivery is made by mail, it will be deemed to have been delivered on the third (3rd) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person to the Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Association.

EXECUTED to be effective on the date this instrument is recorded in the Official Public Records of Bexar County, Texas.

[SIGNATURE PAGE FOLLOWS]

DECLARANT:

FCC SAN ANTONIO I LLC, a Delaware limited liability company

By: Forest City Land Group, Inc., an Ohio corporation, Co-Managing Member

By: _____
Robert F. Monchein, President

THE STATE OF OHIO §
COUNTY OF CUYAHOGA §

This instrument was acknowledged before me on the 18th day of August, 2008, by Robert F. Monchein, President, of Forest City Land Group, Inc., an Ohio corporation, the Co-Managing Member of FCC San Antonio I LLC, a Delaware limited liability company, on behalf of said limited liability company.

(Seal)

DEANA M. VON LEHMDEN
Notary Public
STATE OF OHIO
My Commission Expires Jan. 23, 2011
(Recorded in Lake County)

_____
Notary Public Signature

TRISTONE:

TRISTONE HOMES, LLC, a Texas limited liability company

By: _____
David L. Matlock, Manager

THE STATE OF TEXAS §
COUNTY OF BEXAR §

This instrument was acknowledged before me on the _____ day of _____, 2008, by David L. Matlock, Manager of Tristone Homes, LLC, a Texas limited liability company, on behalf of said limited liability company.

(Seal)

_____
Notary Public Signature

DECLARANT:

FCC SAN ANTONIO I LLC, a Delaware limited liability company

By: Forest City Land Group, Inc., an Ohio corporation, Co-Managing Member

By:_____
Robert F. Monchein, President

THE STATE OF OHIO §
COUNTY OF CUYAHOGA §

This instrument was acknowledged before me on the _____ day of _____, 2008, by Robert F. Monchein, President, of Forest City Land Group, Inc., an Ohio corporation, the Co-Managing Member of FCC San Antonio I LLC, a Delaware limited liability company, on behalf of said limited liability company.

(Seal)

_____
Notary Public Signature

TRISTONE:

TRISTONE HOMES, LLC, a Texas limited liability company

By: _____
David L. Matlock, Manager

THE STATE OF TEXAS §
COUNTY OF BEXAR §

This instrument was acknowledged before me on the 17 day of September 2008, by David L. Matlock, Manager of Tristone Homes, LLC, a Texas limited liability company, on behalf of said limited liability company.

(Seal)

SUSAN S. WAHL
NOTARY PUBLIC
STATE OF TEXAS
My Comm. Exp. 03-20-2009

_____
Notary Public Signature

EXHIBIT "A"

DESCRIPTION OF PROPERTY

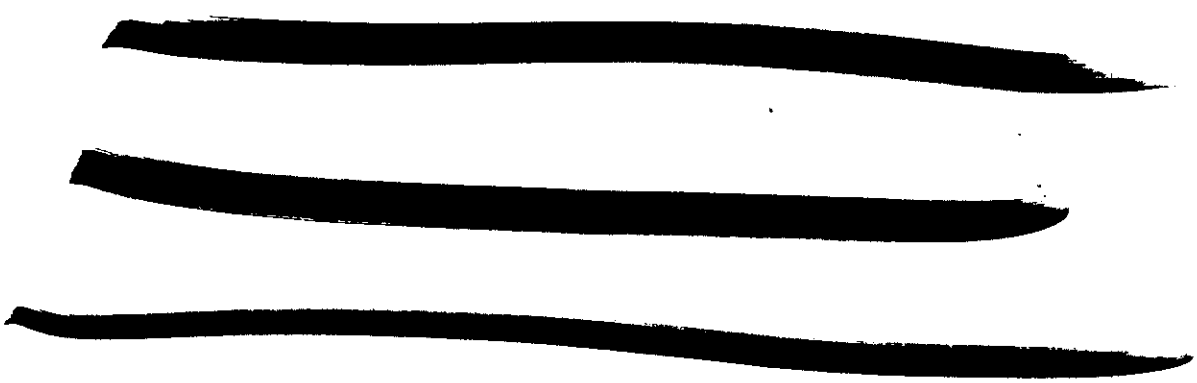


EXHIBIT "A"

GRANTEE'S PROPERTY

FIELD NOTES
FOR
170.85 Acre Tract
(184.95 acres save and except 14.10 acres)

Being a 184.95 acre tract of land out of the Elizabeth Plunkett Survey No. 72, Abstract No. 573, New City Block 18288, in the City of San Antonio, Bexar County, Texas; said 184.95 acres of land being out of a called 100.435 acre tract recorded in Volume 5879, Page 800, of the Real Property Records of Bexar County, Texas; and also being out of a called 100.351 acre tract in Volume 5879, Page 790, of the Real Property Records of Bexar County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a found ½" rebar found at the east corner of the above mentioned 100.351 acre tract;

THENCE S 66° 05'16" W with the southeast lines of said 100.351 acre tract and the 100.435 acre tract mentioned above for a distance of 2424.76 feet to a point on the east or northeast line of a 76' wide drainage right-of-way as shown on the plat of the Richland Hills Unit-1 subdivision recorded in Volume 9000, Pages 113-115 of the Deed and Plat Records of Bexar County, Texas; a ½" rebar found disturbed bears S 47°32'58" W – 0.46 feet;

THENCE, with the east or northeast lines of said 76' wide drainage right-of-way, as described by said subdivision and as further described by the amending plat of Richland Hills Unit-3 shown on the plat recorded in Volume 9502, Pages 84-85, the replat and subdivision plat of Richland Hills Unit-4 recorded in Volume 9502, Pages 128-130, the replat and subdivision plat of Richland Hills, Unit-5A recorded in Volume 9506, Pages 150-151, and the replat and subdivision of Richland Hills, Unit-5B recorded in Volume 9506, Pages 149, all of the Deed and Plat Records of Bexar County, for the following calls:

N 25°00'08" W for a distance of 901.11 feet to a set ½" rebar with Denham-Ramones Engineering plastic cap for an angle point;

N 24°56'22" W for a distance of 2181.16 feet to a point, a second ½" rebar found disturbed bears S 51°20'50" E – 0.30 feet;

THENCE N 24°41'12" W, with the east or northeast line of a variable width (called 0.314 acres) drainage right-of-way, described in the replat and subdivision of The Reserve At Westover Hills Unit 15 recorded in Volume 9551, Page 225 of the Deed and Plat Records of Bexar County; and the current terminus of Military Drive West (86' ROW) for a distance of 387.71 feet to a set 1/2" rebar with Denham-Ramones Engineering plastic cap at the northeast corner of Military Drive West as currently platted;

THENCE through the interior of the 100.435 acre and the 100.351 acre tracts for the following calls:

S 62°37'24" E for a distance of 891.84 feet to a set ½" rebar with Denham-Ramones Engineering plastic cap;

With a tangent curve to the left having a radius of 25.00 feet and a central angle of 90°00'00", the chord bears N 72°22'36" E – 35.36 feet, for a distance of 39.27 feet to a set ½" rebar with Denham-Ramones Engineering plastic cap;
N 27°22'36" E for a distance of 799.27 feet to a set ½" rebar with Denham-Ramones Engineering plastic cap;
With a tangent curve to the left having a radius of 270.00 feet and a central angle of 51°09'33", the chord bears N 01°47'49" E – 233.15 feet, for a distance of 241.08 feet to a set ½" rebar with Denham-Ramones Engineering plastic cap;
N 23°46'57" W for a distance of 95.90 feet to a set ½" rebar with Denham-Ramones Engineering plastic cap;
With a tangent curve to the left having a radius of 15.00 feet and a central angle of 90°00'00", the chord bears N 68°46'57" W – 21.21 feet, for a distance of 23.56 feet to a set ½" rebar with Denham-Ramones Engineering plastic cap;
N 23°46'57" W for a distance of 15.00 feet to a set ½" rebar with Denham-Ramones Engineering plastic cap on the south right-of-way line of Reed Road;

THENCE with the south right-of way line of Reed Road (a variable width ROW), as defined by the called parallel offsets from the north right-of-way of line of said road as shown on the vacating and re-subdivision plat of Timber Ridge Unit 11 recorded in Volume 8900, Pages 14-15, and the subdivision plat of Timber Ridge, Unit-7 recorded in Volume 8200, Page 61, both of the Deed and Plat Records of Bexar County, for the following calls:

N 66°13'03" E for a distance of 454.50 feet to a set ½" rebar with Denham-Ramones Engineering plastic cap;
N 65°54'59" E for a distance of 353.67 feet to a set ½" rebar with Denham-Ramones Engineering plastic cap;
N 66°18'21" E for a distance of 311.84 feet to a set ½" rebar with Denham-Ramones Engineering plastic cap at the northwest corner of a 28' right of way dedication as shown on the correction plat of the Doral Subdivision Unit 5 recorded in Volume 8800, Page 107 of the Deed and Plat Records of Bexar County;

THENCE S 24°56'39" E, with the west or southwest line of said subdivision, same being the west or southwest lines of a variable width drainage easement and a 17' wide access, underground telephone, and overhead electric easement, for a distance of 2267.57 feet to a set ½" rebar with Denham-Ramones Engineering plastic cap at the westernmost corner of a called 59.366 acre tract recorded in Volume 6267, Page 1215-1220 of the Real Property Records of Bexar County;

THENCE S 24°52'21" E, with a southwest line of said 59.366 acre tract, for a distance of 1337.34 feet to the POINT OF BEGINNING, and containing 184.95 acres of land, more or less.

SAVE and EXCEPT the following described tract of land:

Being a 14.10 acre tract of land out of the Elizabeth Plunkett Survey No. 72, Abstract No. 573, New City Block 18288, in the City of San Antonio, Bexar County, Texas; said 14.10 acres of land being out of a called 100.351 acre tract described in Volume 5879, Page 790, of the Real Property Records of Bexar County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a found ½" rebar found at the east corner of the above mentioned 100.351 acre tract;

THENCE S 66° 05'16" W with the southeast line of said 100.351 acre tract for a distance of 585.45 feet to a point; a ½" rebar found in the southwest line, near the west corner, of a 5.0 acre tract described in the deed recorded in Volume 9307, Pages 22-26 of the Real Property Records of Bexar County bears S 65°23'46" W – 57.94 feet;

THENCE through the interior of the 100.351 acre tract for the following calls:

N 24°56'22" W for a distance of 701.94 feet to a point;
N 62°24'36" E for a distance of 179.04 feet to a point;
With a tangent curve to the right having a radius of 25.00 feet and a central angle of 86°17'12", the chord bears S 74°26'48" E – 34.19 feet, for a distance of 37.65 feet to a point;
N 64°47'05" E for a distance of 86.55 feet to a point;
With a non-tangent curve to the right having a radius of 25.00 feet and a central angle of 94°30'50", the chord bears N 15°09'11" E – 36.72 feet, for a distance of 41.24 feet to a point;
N 26°38'32" W for a distance of 86.01 feet to a point;
With a non-tangent curve to the right having a radius of 25.00 feet and a central angle of 92°43'03", the chord bears N 71°13'53" W – 36.18 feet, for a distance of 40.46 feet to a point;
N 24°52'21" W for a distance of 335.77 feet to a point;
With a tangent curve to the left having a radius of 743.00 feet and a central angle of 11°26'05", the chord bears N 30°35'24" W – 148.04 feet, for a distance of 148.28 feet to a point;
N 43°11'49" E for a distance of 339.15 feet to a point on the southwest line of the Doral Unit 8 Subdivision as shown on the plat recorded in Volume 8900, Page 226 of the Deed and Plat Records of Bexar County;

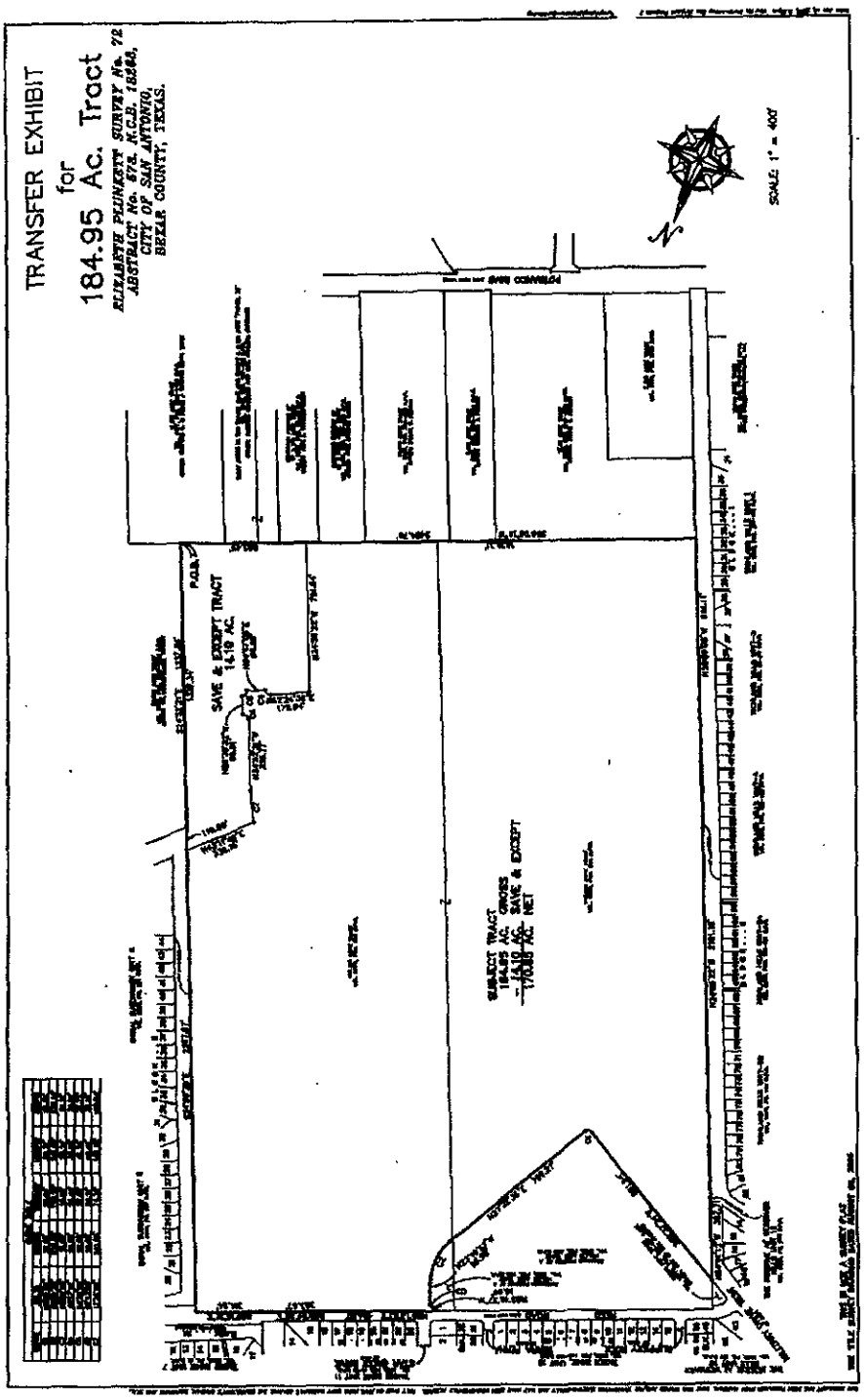
THENCE S 24°56'39" E for a distance of 110.05 feet to a ½" rebar with Denham-Ramones Engineering plastic cap at the west corner of a called 59.366 acre tract recorded in Volume 6267, Pages 1215-1220 of the Real Property Records of Bexar County;

THENCE S 24°52'21" E with the southwest line of said 59.366 acre tract for a distance of 1337.34 feet to the POINT of BEGINNING; and containing 14.10 acres of land more or less.

- Bearings shown are based on the NAD 83 Texas State Plane Coordinate System – South Central Zone obtained by GPS observations.



7



Page 5 of 5
170.85 Acres

8

RECORDER'S MEMORANDUM
AT THE TIME OF RECORDATION, THIS
INSTRUMENT WAS FOUND TO BE INADEQUATE
FOR THE BEST PHOTOGRAPHIC REPRODUCTION
BECAUSE OF ILLEGIBILITY, CARBON OR
PHOTO COPY, DISCOLORED PAPER ETC.

Doc# 20080205045 Fees: $260.00
09/18/2008 11:02AM # Pages 62
Filed & Recorded in the Official Public
Records of BEXAR COUNTY
GERARD RICKHOFF COUNTY CLERK

Any provision herein which restricts the sale, or use of the described rea
because of color or race is invalid and unenforceable under Federal law
STATE OF TEXAS, COUNTY OF BEXAR
I hereby certify that this instrument was FILED in File Number Sequence on
this date and at the time stamped hereon by me and was duly RECORDED
in the Official Public Record of Real Property of Bexar County, Texas on:

SEP 18 2008

COUNTY CLERK BEXAR COUNTY, TEXAS