

THE STATE OF TEXAS {
 { KNOWN TO ALL MEN BY THESE PRESENTS:
COUNTY OF GUADALUPE {

WITNESSETH:

WHEREAS, it is deemed to be in the best interests of Declarant and any other person who may purchase Lots (as defined below) in Country Club Estates, that there be established and maintained a uniform plan for the improvement and development of Country Club Estates as a highly restricted and modern subdivision of the highest quality;

ARTICLE I

DEFINITIONS

C. "Declarant" shall mean and refer to Seguin Country Club Estates, L.L.C., its successors and assigns, provided such successors and assigns (i) acquire more than one Lot in the Subdivision for purposes of development or resale and (ii) are designated as the Declarant by an instrument

in writing executed by Seguin Country Club Estates, L.L.C., and filed of record in the Official Public Records of Guadalupe County, Texas.

D. "*Living Unit*" shall mean and refer to any improvements on a Lot which are designed and intended for occupancy and use as a residence by one person, by a single family, or by persons living together as a single housekeeping unit; provided, however, the term "*Living Unit*" shall not include a garage constructed on the Lot which is detached from the other improvements on the Lot.

E. "*Lot*" shall mean and refer to any of the numbered residential lots shown on the Subdivision Plat or any replat thereof.

F. "*Member*" shall mean and refer to every person or entity who holds a membership in the Association.

G. "*Occupied Lot*" shall mean and refer to any Lot on which there is a Living Unit in which one or more persons are residing.

H. "*Owner*" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Subdivision, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. However, the term "*Owner*" shall include any mortgagee or lienholder who acquires fee simple title to any Lot through judicial or nonjudicial foreclosure.

I. "*Subdivision*" shall mean and refer to that certain real property within the perimeters of the legal description of Country Club Estates, a subdivision in Guadalupe County, Texas, as set forth on the Subdivision Plat.

ARTICLE II ARCHITECTURAL CONTROL

A. **Architectural Control Committee.** There is hereby created an Architectural Control Committee (herein referred to as the "*Committee*") comprised of Dr. R.L. Elsik, James A. Stewart, Arvin A. Stewart, each of whom shall serve until his successor is appointed or the expiration of their term as set forth in Article II, Section G, whichever is later. Any two (2) of the members of the Committee shall have the full authority and power to act for the Committee. Any member of the Committee may be removed, with or without cause, by the Declarant. In the event any member of the Committee should be so removed from the Committee or if any member of the Committee should die, resign, refuse to act, or become unable or ineligible to act, Declarant shall have the authority to designate a successor. No member of the Committee or its designated representative(s), as herein defined, shall be entitled to any compensation for services performed pursuant to this Article. The Committee may, however, employ one or more architects, engineers, attorneys, or other consultants to assist the Committee in carrying out its duties hereunder, and the Association shall pay such consultants for such services as they render to the Committee. A majority of the Committee may designate one or more representative(s) to act for it and such representative(s) shall have the full right, authority, and power to carry out the functions of the Committee.

B. **Duties and Powers.** The purpose of the Committee is to protect the environmental and architectural integrity of the Subdivision in accordance with the provisions of this Declaration.

No building, fence, wall, or other structure or improvement of any nature shall be placed, constructed, erected, or maintained on any Lot, nor shall any exterior addition to or change or alteration therein be made until the construction plans and specifications for the same shall have been submitted to and approved in writing by the Committee as to (a) conformity and harmony of external design and location in relation to surrounding structures and topography, and (b) quality of workmanship and materials. Any plans and specifications to be submitted shall specify, in such form as the Committee may reasonably require, the location upon the Lot where the improvements are to be placed and dimensions thereof as well as appropriate information concerning the structural, mechanical, electrical, and plumbing details and the nature, kind, shape, height, color scheme, and materials of the proposed improvements or alterations. The Committee shall also have the right, where not otherwise set forth herein, to specify:

- (a) Minimum setbacks;
- (b) The location, height and extent of fences, walls, or other screening devices;
- (c) The orientation of structures and landscaping on Lots with respect to streets, walks, and structures on adjacent properties, however, the Committee shall not require setbacks further away from the streets than any platted building line; and
- (d) A limited number of acceptable exterior materials and/or finishes that may be used in the construction, alteration or repair of any improvement.

All decisions of the Committee shall be final and binding, and there shall be no revision of any action of such Committee except by procedure of injunctive relief when such action is patently arbitrary and capricious. Further, no person exercising any prerogative of approval or disapproval by the Committee shall incur any liability to any person subject to or possessing or claiming the benefits of these restrictive covenants for any damages or injury to property or for damages or loss arising out of their acts hereunder; it being understood and agreed that any remedies shall be restricted to injunctive relief and no other.

C. Building Requirements - Initial Construction. Prior to the beginning of construction on any lot, the Owner shall present to the Committee the site plan and all other construction plans and specifications (including construction materials to be used) for the Committee's inspection and approval or disapproval. Construction shall be done solely in accordance with the site plan and other plans and specifications as approved by the Committee. No more than twelve (12) inches of slab shall be visible from any given angle. Construction must be started within four (4) months after Committee approval or if the Owner fails to meet the deadline just described, then the plans and specifications must be resubmitted to the Committee for approval or disapproval. Construction must be completed within eight (8) months after the date it is started. In the event the Owner does not comply with the above deadlines, the Owner shall become responsible for and shall pay to the Declarant, upon demand, a sum equal to (i) any and all special assessments, non-user fees, penalty fees or other similar fees or charges charged by a utility company to the Declarant, its successors or assigns, the property or owner, for owner's failure to utilize such utilities multiplied by (ii) a factor of 1.1. The foregoing sum shall be considered a special maintenance assessment and secured by the lien described in Article IX. The Owner or builder must place portable toilets and a trash dumpster at a lot on the day construction commences. No refuse shall be burned on a lot or at any other site in the Subdivision during construction or at any other time. Any transfer of a lot from the owner to a transferee shall be subject to this continuing restriction to construct within the Construction Period until such time as the improvements are constructed in accordance

with the terms hereof or all such fees are paid.

D. Building Requirements - Renovations. Prior to the beginning of any construction for a renovation, remodeling, or other such construction on lot, the Owner shall present the Committee the site plan and all other construction plans and specifications (including construction materials to be used) for the Committee's inspection and approval or disapproval. The construction of remodeling, renovation or other similar construction shall be done solely in accordance with the site plans and other plans and specifications as approved by the Committee. Construction must be completed within eight (8) months after the receipt of approval from the Committee.

E. Committee Approval. Any approval or disapproval by the Committee or its designated representative(s) on any of the above matters shall be in writing and either conveyed in person or U.S. mail, postage prepaid. In the event said Committee or its designated representative(s) fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, then such plans and specifications shall be deemed disapproved. The Committee shall have the right, exercisable at its discretion, to grant variances to the architectural restrictions in specific instances where the Committee in good faith deems that such variance does not adversely affect the architectural and environmental integrity of the Subdivision or the common scheme of the development of the Subdivision. If the Committee shall approve a request for variance, the Committee may evidence such approval, and grant its permission for such variance, only by written instrument, addressed to the Owner of the Lot(s) relative to which such variance has been requested, describing the applicable restrictive covenant(s) and the particular variance requested, expressing the decision of the Committee to permit the variance, describing (when applicable) the conditions on which the variance has been approved and signed by a majority of the then members of the Committee. If any such variances are granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance is granted; however, the granting of a variance shall not operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall the granting of any variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the Lots and with the Plat. Failure by the Committee to respond within thirty (30) days to a request for a variance shall operate as a denial of the variance.

F. Re-subdividing Of Lots. No Lot shall be re-subdivided or Lot lines changed without permission in writing from the Committee.

G. Term. The duties and powers of the members of the Committee herein named, their successors, assigns, and designated representative(s) shall cease on the earlier of twenty (20) years from the date this Declaration of Covenants, Conditions, and Restrictions is recorded in the Official Public Records of Guadalupe County, Texas, or the date upon which all Lots subject to the jurisdiction of the Association become Occupied Lots. Thereafter, the duties and powers of the Committee shall vest in the Board of Directors of the Association or a Control Committee composed of three (3) or more representatives appointed by the Board of Directors of the Association. The approval required in this Article and the duties and powers vested in the Committee and its successors shall continue so long as this Declaration of Covenants, Conditions, and Restrictions remains in force and effect. The then current members of the Committee may at any time voluntarily transfer all their duties and powers to the Board of Directors of the Association. To be effective, such a transfer shall be evidenced by a document executed by each of the then current members of the Committee.

II. No Implied Waiver or Estoppel. No action or failure to act by the Committee or by the Board of Directors shall constitute a waiver or estoppel with respect to future action by the Committee or Board of Directors with respect to the construction of any improvements within the Subdivision. Specifically, the approval by the Committee or Board of Directors of any such residential construction shall not be deemed a waiver of any right or an estoppel to withhold approval or consent for any similar residential construction or any similar proposals, plans, specifications, or other materials submitted with respect to any other residential construction by such person or other Owner.

ARTICLE III EXTERIOR MAINTENANCE

A. Obligation. All Living Units and other buildings located within the Subdivision must be kept in good repair and must be painted when necessary to preserve their attractiveness. Grass, vegetation, and weeds on each Lot shall be cut as often as may be necessary to maintain the same in a neat and attractive condition. All damaged, diseased beyond recovery, or dead trees shall be cut and removed from any Lot at the expense of the Owner. Vacant Lots shall be mowed and maintained in appearance by the Owner and shall not be used as dumping grounds for rubbish, trash, rubble, or soil, except that Declarant or the Committee may designate fill areas into which materials specified by Declarant or the Committee may be placed. The Association may plant, install and maintain shrubbery and other screening devices around boxes, transformers and other above-ground utility equipment. The Association shall have the right to enter upon the Lots to plant, install, maintain, and replace such shrubbery or other screening devices. Owners of residences shall construct and maintain a fence or other suitable enclosure to screen from public view yard equipment, wood piles, or storage piles.

B. Failure to Maintain. In the event any Owner of any Lot in the Subdivision fails to maintain the Lot and the improvements situated thereon in a manner satisfactory to the Board of Directors of the Association, the Association, after seven (7) days' notice to the Owner of said Lot, setting forth the action intended to be taken by the Association and after approval by a two-thirds (2/3) vote of the Board of Directors, shall have the right (but not the obligation), through its agents and employees, to enter upon said Lot and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements located thereon. To the extent necessary to prevent rat and other pest infestation, diminish fire hazards, and accomplish any of the above needed repair, maintenance, and restoration, the Association shall have the right (but not the obligation), through its agents and employees, to enter any residence or improvement located upon such Lot. Neither the Association nor its agents or employees shall be liable, and are expressly relieved from any liability for trespass or other tort in connection with the performance of the exterior maintenance and other work authorized in this Article. The cost of such exterior maintenance and other work shall be the personal obligation of the Owner of the Lot on which it was performed and shall become a part of the assessment payable by said Owner and secured by the liens herein retained.

ARTICLE IV USE RESTRICTIONS

A. Residential Use. Each and every Lot in the Subdivision is hereby restricted to one residential dwelling for single-family residential use only. As used herein, the term "residential use" shall be held and construed to exclude hospitals, clinics, apartment houses, duplex houses, garage

apartments used for rental purposes, boarding houses, hotels, and commercial and professional uses whether from homes, residences, or otherwise, and all such uses of said property are hereby expressly prohibited.

B. Business Activity. Except as provided below, no business activities of any kind whatsoever shall be conducted in any portion of the Subdivision. The foregoing covenant shall not apply to the business activities of the Declarant, its agents and assigns, during the construction and sale period, or of the Association, its successors and assigns in furtherance of its powers and purposes as herein set forth. Each builder on Lots in the Subdivision shall be allowed to use the garage structure constructed on the Lot as an office; provided, however, that such structure must be converted back to a garage prior to the sale of the home on the Lot affected to a purchaser. No Owner or Member shall conduct, transmit, permit, or allow any type or kind of home business or home profession or hobby on any Lot or within any Living Unit which involves on-site employees or on-site advertising or which would attract automobiles, vehicular, or pedestrian traffic to the Lot or involve lights, sounds, smells, visual effects, pollution, and the like which would adversely affect the peace and tranquility of any one or more of the Owners or Members within the Subdivision and the Association may make such further rules and restrictions governing any home business or home hobby to assure that such peace and tranquility are not disturbed.

C. Common Area. The Common Area shall not be used for any commercial purposes; however, this provision shall not preclude the Association from charging reasonable fees for the use of any recreational facilities which are part of the Common Area. The Common Area cannot be mortgaged or convey without the consent of two-thirds (2/3) of the Lot Owners including Declarant.

D. Exemption for Sale of Lots. Notwithstanding any provisions herein contained to the contrary, it shall be permissible for Declarant or the builder of any residence to maintain, during the period of construction and sale of Lots within the Subdivision, upon any portion of a Lot, such facilities as in the sole opinion of the Declarant may be reasonably required, convenient, or incidental to the construction and sale of improved Lots, including, without limitation, a business office, storage area, construction yards, model units, and a sales office.

E. Animals and Livestock. The raising, breeding or keeping of animals, livestock or poultry of any kind on any Lot in the Subdivision is strictly prohibited; provided, however, consistent with the Living Unit's use as a residence, dogs, cats, and other household pets may be kept on a Lot, provided they are not kept, bred, or maintained for any commercial purposes and further provided, no more than three (3) such pets shall be kept on a Lot. All pets must be properly tagged for identification and penned in an approved enclosure. No pet may be chained or leashed outside an enclosure unless being walked on a leash. Whenever a pet is removed from its enclosure, it must be in the possession of its owner or the owner's agent and must be restrained by a proper leash of chain, rope, plastic, leather, or similar material.

F. Mineral Production. No oil drilling, oil development operations or oil refining, quarrying or mining operations of any kind shall be permitted upon any portion of the Subdivision, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any portion of the Subdivision. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any portion of the Subdivision.

G. Disposal of Trash. No portion of the Subdivision shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other wastes. All rubbish, trash, garbage, or other

waste shall be kept in covered sanitary containers and out of sight of the Common Area and adjacent Lot, except on days designated by the Association for pick-up of such garbage. In a manner consistent with good housekeeping, the Owner of each Lot shall remove such prohibited matter from his Lot at regular intervals at his expense. No incinerator may be maintained on any portion of the Subdivision.

H. Storage of Vehicles. No portion of the streets or Common Area shall, without the express written permission of the Association, be used for the storage of boats, trailers, campers, unused or inoperable automobiles, or any items which the Board of Directors of the Association deems unsightly or inappropriate. Boats, trailers, campers, recreational vehicles, trucks over 1-ton or trailers, unused or inoperable automobiles and other machinery consistent with the use of the premises as a residence may be kept on Lots, provided they are kept or stored within a garage or such other place as may be completely out of view from the Common Area or any street or adjacent Lot. No Owner of any Lot in the Subdivision or any visitor or guest of any Owner shall be permitted to perform work on any vehicle in any driveway or street other than for work of a temporary nature. For the purpose of the foregoing term, "temporary" shall mean that the vehicle shall not remain in a driveway or street in excess of forty-eight (48) hours. Garage doors shall be closed at all times, except for immediate entry or exit.

I. Storage of Building Materials. No Lot shall be used for storage of any material except that required for landscaping or construction, which materials shall not be placed or stored upon any Lot until the Owner is ready to commence construction of improvements on the Lot, at which time such materials shall be placed within the property lines of the Lot upon which the improvements are to be constructed, and shall not be placed in the street or upon any Common Areas.

J. Signs. No advertising signs (except not more than one five (5) square foot "For Rent" or "For Sale" sign per Lot), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on any portion of the Subdivision. Declarant and the Association, however, shall have the right to erect identifying signs at each entrance of the Subdivision and Declarant may place and maintain, or permit to be placed and maintained, such builder advertising signs as it may desire in its sole discretion in connection with the construction of homes in the Subdivision. The Board of Directors of the Association shall have the right to enter in and upon any Lot for the purpose of removing any sign being maintained thereon which has not been approved by it. In no event shall the Association or its Board of Directors be liable to any person or persons for any damages of whatever nature for removing such signs in a reasonable manner.

K. Clotheslines. No outside clothesline shall be constructed or maintained on any Lot.

L. Nuisances. No noxious or offensive activity shall be carried on upon any lot or Common Area, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No exterior lighting of any sort shall be installed or maintained on a lot where the light source is offensive or a nuisance to neighboring property (except reasonable landscape lighting that has the approval of the Committee). No exterior speakers, horns, whistles, bells or other sound devices (except security devices used exclusively to protect the lot and the improvements located thereon) shall be placed or used upon any lot without approval of the Committee. Telephones will be allowed outdoors. No fuel tank or similar storage facility shall be installed or maintained on any lot unless constructed as an integral part of the main structure or installed underground and approved by the Committee.

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M. Prohibited Conduct. No portion of the Subdivision shall be used for vicious, illegal, or immoral conduct, or for any conduct in violation of the laws of the State of Texas, or the United States, or of the police, health, sanitary, building, or fire codes, regulations or instructions relating to or affecting the use, occupancy, or possession of any portion of the Subdivision.

N. Control of Sewage Effluent. No outside toilets will be permitted, and no installation of any type of device for disposal of sewage shall be allowed that would result in raw or untreated or unsanitary sewage being carried into the streets or into any body of water. Drainage of storm waste into sewage pipes shall not be permitted. No septic tank or other means of sewage disposal will be permitted.

O. Basketball Goals. Basketball backboards or similar equipment shall not be mounted on the Living Unit or garage. Posts shall be installed on the side of the driveway so that the back of the goals faces toward the Owner's Lot and a minimum of fifteen (15) feet in from the street curb. Portable goals may be used, but shall be erected no closer than fifteen (15) feet to the street curb and shall be removed from sight of the street when not in use.

P. Water Wells and Windmills. No water wells may be drilled on any Lot. No windmills shall be erected.

ARTICLE V ARCHITECTURAL RESTRICTIONS

A. Type of Living Unit. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single-family dwelling. No building shall exceed the lesser of two and one-half (2-1/2) stories, or thirty-five (35) feet in height. All structures shall be of new construction and no structure shall be moved from another location onto any Lot.

B. Type of Construction. The area of the outer walls of the main residence constructed on any of the above described lots shall be composed of at least seventy-five percent (75%) masonry (defined as rock, brick, stucco on tile, or stucco over wood framing), said percentage to apply to the aggregate area of all said walls. Glass areas may be construed as masonry areas. The outer walls of the garage or other permitted masonry building, whether detached or attached to the main residence, shall be of the same construction as the outer walls of the main architectural style of the main residence. All foundation designs of the main residence shall be submitted to the Committee for its approval by a licensed engineer. All said foundations of the main residence on any lot in said Subdivision shall be of concrete or masonry construction.

C. Dimensions of Living Units. Unless otherwise approved by the Committee, no residential structure shall be erected, altered, placed, or permitted to remain on any Lot located in the Subdivision unless its living area has a minimum of one thousand six hundred (1600) square feet of usable floor space exclusive of porches and garage, and, in the case of a two-story structure, at least one thousand (1000) square feet on the ground floor. The minimum square foot area shall be exclusive of open porches, balconies, terraces, garages, port-cocheres, or accessory buildings.

D. Facing of Residences. The fronts of residences located on Lots 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 23, and 24 shall face St. James. The fronts of residences located on Lots 1, 2, 3, 4, 5, and 6 shall face Club View West. The fronts of residences located on Lots 7, 8, 20, 31, 32, 33, 34, 25, 26, 27, 38, and 39 shall face Arvin. The fronts of residences located on Lots 65 and 66 shall face Club View South.

E. Restriction of Access To Country Club Drive. No lot adjacent to Country Club Drive shall have a permanent driveway or similar access way connected to or running to County Club Drive.

F. Garage. Any Living Unit constructed on said premises shall be required to have a garage, sufficient to store a minimum of two (2) cars. The exterior of the garage shall be constructed of the same materials as that of the main residence and in harmony with the style and architecture of the main residence. Garages attached to residences may be converted to living areas provided that sufficient driveway space in side yards remains, as is elsewhere provided for herein, and that an additional garage sufficient to store a minimum of two (2) cars must be built in compliance with these restrictions within three (3) months after such conversion, all to be subject to the written approval of the Committee.

G. Set Back Lines. No building or other structure shall be located nearer to any front, side, or rear Lot line than as permitted by any utility easements and the set back lines shown on the Subdivision Plat. The Committee is hereby given authority to waive the setback requirements provided above as follows: With written approval of the Committee, any building or structure may be located nearer the front property line, rear property line, or side property line, as provided in the above paragraph where, in the opinion of the Committee, the proposed location of the building or structure will add to the appearance and value of the lot, will not detract from the appearance and value of other lots, and will not violate applicable governmental regulations and rules.

H. Metal Buildings. No metal buildings of any type shall be placed or constructed upon any Lot.

I. Roof Material. The roofs of the main residential buildings, garages, other permitted accessory buildings, and any other structures constructed on any of the lots in the Subdivision, shall be of standing seam metal, tile, concrete tile, slate, fiberglass, or 200 lbs. or greater composition asphalt shingles. Built up roofs may be used only where they are not visible from the street or adjoining lots. At the discretion of the Committee, other types of roofs utilizing a surfacing material of another architectural texture may be used; provided, however, no asbestos products shall be utilized in any construction in the Subdivision.

J. Building Material. For the purposes of these protective covenants, when construction material is specified herein, another material may be used in lieu thereof, provided that such substituted material is determined by the Committee to be of equivalent or better quality than the specified material.

K. Compliance With Uniform Building Code. All residences, garages, houses, or other permitted accessory buildings, and any other structures built on lots, must be constructed in accordance with and conform to, the most recent addition of the Uniform Building Code as promulgated on the date construction of the structure begins. Additionally, all residences, garages, or other permitted accessory buildings and any other structures built upon the lots which are located in the 100 year flood easement, as recorded on the final plat, shall be constructed in accordance with the guidelines of the Federal Insurance Agency of the United States Department of Housing and Urban Development as promulgated on the date construction of the structure begins.

L. Driveways. All driveways shall be constructed of concrete.

M. Sidewalks. Owners may construct a concrete sidewalk four (4) feet in width, parallel to the street exclusive of utility easements and street right-of-ways. Any sidewalk shall extend the full width of the Lot and on Lots that abut on more than one street, the sidewalk shall extend the full width and depth of the Lot and up to the street at the corner. Any sidewalks shall be constructed in accordance with specifications published by the Committee, if any, Guadalupe County, City of Seguin, and any other federal, state or local agency having jurisdiction.

N. Curb Ramps. If required by applicable federal, state or local law, curbs with accompanying sidewalks shall have curb ramps (depressions in the sidewalk and curb) at all crosswalks to provide safe and convenient movement of physically handicapped persons confined to wheelchairs. Such curb ramps will be provided at the time of construction of any sidewalks and shall be constructed in accordance with specifications provided by the applicable governmental authority.

O. Traffic Sight Areas. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines, and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No trees shall be permitted to remain within such distance of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

P. Fences. No fence, wall or hedge shall be erected, placed or altered on any lot in the Subdivision nearer to the street than the front wall line of the respective house without prior approval in writing of the Committee. Any side fence, rear fence, or perimeter fence constructed on any lot controlled by these covenants shall also be approved in writing by the Committee prior to construction. Galvanized chain-link, and wire-mesh type fences are specifically not allowed on any lot. All side rear yard fences and all wing wall and front yard fences constructed in the Subdivision shall be constructed of all masonry, all wrought iron, all wood or a combination of those materials which has been designed to compliment the main residence and shall be subject to Committee approval. Construction of all fencing shall be subject to the following conditions and requirements:

1. Yard fencing shall not exceed a height of six (6) feet.
2. No fence shall be erected or constructed until a fencing plan depicting the proposed location and a detail of materials has been submitted to and approved in writing by the Committee. Any fence erected without such approval or in violation of any other requirement herein shall be removed at the Owner's expense within ten (10) days of receipt by said owner of such notice that it is in violation of the requirements set out herein.
3. Split rail and all other material fences must be no higher than three (3) feet, and the galvanized insert used with split rail fences will be approved for containing animals.

Q. Fences Required For Those Lots Adjacent To Country Club Drive. The Owners of all Lots adjacent to Country Club Drive shall erect and maintain a privacy fence of wood along the Lot line adjacent to Country Club Drive. Declarant may but is not required to place fence

posts for said fences along said Lot lines.

R. Exterior Antennas. No exterior television antenna, television satellite reception disc, or radio antenna of any sort shall be placed, allowed or maintained upon any portion of any lot forward of the front building line of said lot. Furthermore, no satellite dish or receivers shall be placed or maintained on any lot, which would be visible from any adjacent lot or Common Area of the Subdivision, or the street. No antenna when installed shall project more than six (6) feet above any roofline.

S. Temporary Structures. No structures of a temporary character, including tents, shacks, barns, or other outbuildings shall be placed on any Lot located within the Subdivision except for such temporary buildings utilized by the Declarant or the builder of any residence during the period of construction. Trailers, motor vehicles, and recreational vehicles shall not be used on any Lot at any time as a residence, either temporarily or permanently.

T. Accessory Buildings. Accessory buildings shall include garages, lawn storage buildings and children's tree houses and playhouses. In no event shall accessory buildings be used or occupied as Living Unit. Accessory buildings for the use and exclusive benefit of the Owner may be placed on a Lot, but not more than two (2) accessory buildings (in addition to a detached garage) may be built or placed on any Lot. Provided the express written consent of the Committee is secured prior to installation and placement, one (1) lawn storage building and one (1) children's play house may be placed on a Lot. Both lawn storage buildings and children's playhouses are limited to a maximum height of eight (8) feet. Lawn storage buildings and children's playhouses may be of new construction, or may be moved from another location onto a Lot, but must in all circumstances be placed to the rear of the Living Unit so as not to be visible from the fronting street. Except for children's playhouses made of treated pine, redwood, or cedar material, no structure of any kind or character which incorporates framed construction on the exterior shall be erected on any Lot unless a structure receives two (2) coats of paint at the time of construction.

U. Air Conditioners. Except during construction periods, no window or wall type air conditioners visible from any street shall be permitted.

V. Mailboxes and Identifying Numbers. Mailboxes, house numbers, and similar matter used in the Subdivision must be harmonious with the overall character and aesthetic appeal of the community and the decision of the Committee that any such matter is not harmonious shall be final.

W. Private Utility Lines. All electrical, telephone and other utility lines and facilities which are located on a Lot, and are not owned by a governmental entity or a public utility company shall be installed in underground conduits or other underground facilities unless otherwise approved in writing by the Committee.

X. Solar Collectors. No solar collectors shall be installed without the prior written approval of the Committee. Such installation shall be in harmony with the design of the residence. Whenever reasonably possible, solar collectors shall be installed in a location that is not visible from the public street in front of or to the side of any residence.

Y. Grass. The owner of each Occupied Lot shall spot sod or sprig with grass the area between the front of the residence and curb line of the abutting street. The grass shall be of a

type and within standards prescribed by the Committee. Grass and weeds shall be kept mowed to prevent unsightly appearance. Dead or damaged trees or other shrubbery, which might create a hazard to the property or persons within the Subdivision shall be promptly removed and repaired, and if not removed by Owner within thirty (30) days after written request by the Declarant or the Association, the Declarant or the Association may remove or cause to be removed such trees and/or shrubbery at the Owner's expense and shall not be liable for damage caused by such removal. Vacant lots shall be mowed and maintained in appearance by the Owner.

ARTICLE VI EASEMENTS

A. **General.** Declarant shall have the right to grant, convey, dedicate, or reserve easements over, on or under any part of the land in the Subdivision reasonably required for streets and/or for electric light and power, telephone, natural gas, water, sanitary sewer, storm sewer, cable television, and other utility lines and facilities by separate recordable document for a period of ten (10) years after the date this Declaration of Covenants, Conditions, and Restrictions is filed of record in the Official Public Records of Guadalupe County, Texas, so long as such easements do not materially impair use of the Lots for single family residential use as set forth herein, regardless of whether at such time Declarant has title to the land within the easement(s). Thereafter, the Association shall have the power and authority to grant such an easement upon the vote of a majority of the membership votes entitled to be cast at any meeting of the Members of the Association or otherwise. An easement is also specifically granted to the United States Post Office, its agents and employees to enter upon any portion of the Subdivision in performance of mail delivery or any other United States Post Office services. An easement is also granted to all police, fire protection, ambulance, and similar persons to enter upon any portion of the Subdivision in performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and to any management company duly selected by the Association, to enter in or cross over the Common Area and/or any Lot to perform the duties of maintenance and repair as provided for herein. The easements provided for in this Article shall in no way affect any other recorded easements covering any portion of the Subdivision.

ARTICLE VII HOMEOWNERS' ASSOCIATION

A. **Organization.** The Association is organized as a nonprofit corporation under the laws of the State of Texas. The principal purposes of the Association are the collection, expenditure, and management of the maintenance funds, enforcement of the Declaration, providing for the maintenance, preservation, and architectural control (when the powers of the Committee terminate and the Committee's powers vest in the Association) within the Subdivision, the general overall supervision of all of the affairs of the Subdivision and other subdivisions within its jurisdiction. Amendment of the Articles of Incorporation requires the approval of at least two-thirds (2/3) vote of the member lot owners.

B. **Membership.** Every person or entity who is a record owner of a fee or undivided fee interest in a Lot which is a part of the Subdivision, including contract sellers, shall hold a membership in the Association. The foregoing is not intended to include persons or entities who hold an interest in a Lot merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Ownership of a Lot shall be the sole qualification for membership. Any mortgagee or lienholder who acquires title to any Lot which is a part of the Subdivision, through judicial or nonjudicial foreclosure, shall be a

Member of the Association.

C. Board of Directors. The Association shall act through a Board of Directors who will manage the affairs of the Association as specified in the Bylaws of the Association.

D. Voting Rights. There shall be two classes of membership entitled to voting rights in the Association with respect to the Subdivision and they shall be as follows:

1. **Class A.** All Owners other than Declarant, shall be considered Class A Members, and for each Lot owned shall be entitled to one (1) vote on each matter coming before the Members at any meeting or otherwise, unless their voting rights have been suspended by the Board of Directors as herein provided in Article VIII, Section A.4. When a particular Lot is owned by more than one individual or entity, all the individuals or entities holding an ownership interest in that Lot shall be considered Class A Members; however, for that particular Lot they shall be entitled to a total of no more than one vote on each matter coming before the Members at any meeting or otherwise. The vote for such Lot shall be exercised as they among themselves determine.

2. **Class B.** Class B Member shall be the Declarant, and for each Lot owned it shall be entitled to three (3) votes on each matter coming before the Members at any meeting or otherwise. Once a Lot is sold to an individual or individuals who would be classified as Class A Members, subject to paragraph (c) below, the three (3) votes attached to that Lot shall be extinguished, subject to paragraph (c) below. All Class B memberships with respect to the Subdivision shall cease and be automatically converted into Class A Memberships on the happening of any of the following events, whichever occurs earlier:

(a) When the total number of votes entitled to be cast by the Class A Members, with respect to the Subdivision, at any meeting of the Members or otherwise equals the total number of votes entitled to be cast by the Class B Member, with respect to the Subdivision;

(b) Ten (10) years from the date this Declaration of Covenants, Conditions, and Restrictions is filed in the Official Public Records of Guadalupe County, Texas; or

(c) At such earlier time as the Class B Member, in its sole discretion, shall elect.

3. **Reinstatement of Class B Member.** Notwithstanding the prior provisions of paragraph (b) above, if additional land is subject to the jurisdiction of the Association such that the Declarant owns more than 25% of all Lots (including all Lots within the jurisdiction of the Association), then the provisions in the first sentence of Section 2 above shall be automatically reinstated ipso facto.

E. Dissolution of the Association. If for any reason, the Association is dissolved, its assets shall be dedicated to a public body, or conveyed to a nonprofit organization with a similar purpose.

ARTICLE VIII PROPERTY RIGHTS

A. Owner's Easement of Access and Enjoyment. Every Owner shall have an easement of access and a right and easement of enjoyment in and to the Common Area and such easement

shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

1. **Admission Fees.** The right of the Association to charge a reasonable admission and other fees for the use of any recreational facilities situated on the Common Area;

2. **Rules and Regulations.** The right of the Association to make, publish and enforce reasonable Rules and Regulations for the use of the Common Area and any facilities situated thereon;

3. **Limit Number of Guests.** The right of the Association to limit the number of tenants, employees, guests and invitees of Owner using any portion of the Common Area and any facilities located thereon and, in particular, the right to limit and control parking upon the Common Area;

4. **Suspension of Rights.** The right of the Association to suspend a Member's voting rights and right to use any recreational and other facilities owned or operated by the Association, excluding domestic water, for any period during which any easement against his Lot or any other sum due the Association by him remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulation; and

5. **Borrow Money.** The right of the Association, in accordance with its Articles of Incorporation or By-Laws, to borrow money for the purposes of maintaining, operating and improving the Common Area and facilities in aid thereof to mortgage all or any portion of the Common Area. Except for mortgages placed upon the Common Area by Declarant, unless otherwise authorized by the Association, the rights of any such mortgagee of the Common Area shall be subordinate to the rights of the Owners hereunder. However the Association shall not mortgage or convey all or any part of the Common Area without the consent of two-thirds (2/3) of the Lot Owners excluding the Declarant.

B. **Delegation of Use.** Any Owner may delegate in accordance with the Bylaws of the Association, his right or enjoyment to the Common Area and facilities to members of his family, his tenants, or contract purchasers who reside on the Lot owned by him. The Declarant, for each Lot owned within the subdivision, hereby covenants, and each Owner of any Lot, by acceptance of a Deed therefor, whether it shall be express in the Deed or the evidence of the conveyance, is deemed to covenant that any lease executed on a Lot shall be in writing and contain provisions binding any lessee thereunder to the terms of this Declaration of Covenants, Conditions, and Restrictions and any rules and regulations published by the Association applicable to the Common Area and further providing that noncompliance with the terms of the lease shall be a default thereunder.

C. **Title to Common Area.** Subject to the terms and provisions of any deed of trust or other lien instrument against the Common Area or a portion thereof, the Common Area shall remain undivided and shall at all times be owned by the Association or its successors, it being agreed that this provision is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Common Area. Notwithstanding the above, the Declarant reserves the right to grant, convey, dedicate or reserve easements over, on or under the Common Area to any public agency, authority or utility for such purpose and subject to such conditions as may be determined by the Association.

ARTICLE IX
COVENANT FOR MAINTENANCE ASSESSMENTS

A. Creation of the Lien and Personal Obligation for Assessments. The Declarant, for each Lot within the Subdivision which shall be or thereafter become subject to the assessments hereinafter provided for, hereby covenants, and each Owner of any Lot that shall be or thereafter become assessable, by acceptance of a Deed therefor, whether or not it expressed in the Deed or other evidence of the conveyance, is deemed to covenant and agree to pay the Association the following:

1. Annual assessments or charges;
2. Special assessments for capital improvements; and
3. Any other sums to the extent they are specifically provided for elsewhere in this instrument.

Such assessments or charges are to be fixed, established and collected as hereinafter provided. These charges and assessments, together with such interest thereon and cost of collection thereof, as hereinafter provided, shall be a charge on the land and shall be secured by a continuing lien upon the Lot and improvements thereon against which such assessments or charges are made. Each such assessment or charge, together with such interest, costs and reasonable attorneys' fees shall also be and remain the personal obligation of the individual or individuals who owned the particular Lot at the time the assessment or charge became due, notwithstanding any subsequent transfer of title to such Lot. The personal obligation for delinquent assessments and charges shall not pass to successors in title unless expressly assumed by them.

B. Purposes of Assessments. The assessments accumulated by the Association, insofar as the same may be sufficient, shall be applied toward the payment of all taxes, insurance premiums, and repair, maintenance, and acquisition expenses incurred by the Association and at the option of the Board of Directors of the Association for any or all of the following purposes: lighting, improving and maintaining streets, alleyways, sidewalks, paths, parks, parkways, and esplanades in the Subdivision and in other subdivisions within its jurisdiction; payment of management, legal, and all other expenses incurred in connection with the collection, enforcement, and administration of all assessments and charges, and in connection with the enforcement of this Declaration of Covenants, Conditions, and Restrictions; employing policemen or watchmen and/or a security service; fogging and furnishing other general insecticide services; providing for the planting and upkeep of trees and shrubbery on esplanades and in the Common Area; acquiring and maintaining any amenities or recreational facilities that are or will be operated in whole or in part for the benefit of the Owners; and doing any other thing necessary or desirable in the opinion of the Board of Directors of the Association to keep and maintain the property in the Subdivision and in other subdivisions within its jurisdiction in neat and good order or which they consider of general benefit to the Owners or occupants of the Subdivision and in other subdivisions within its jurisdiction, including the establishment and maintenance of a reserve for repair, maintenance, taxes, insurance, and other charges as specified herein. Such funds may also be used to repair, maintain and restore abandoned or neglected residences and Lots as hereinafter provided. It being understood that the judgment of the Board of Directors of the Association in establishing annual assessments, special assessments, and other charges and in the expenditure of said funds shall be final and conclusive so long as said judgment is exercised in good faith.

C. Basis and Maximum Level of Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot from Declarant to an Owner, the maximum annual assessment shall be ONE HUNDRED DOLLARS (\$100.00) per Lot. From and after January 1 of the year immediately following the conveyance of the first Lot from Declarant to an Owner, the maximum annual assessment may be increased by the Board of Directors of the Association, effective January 1 of each year, in conformance with the rise, if any, in the Consumer Price index for all Urban Wage Earners and Clerical Workers, U.S. city average, specified for "All Items" (base year 1967 = 100) published by the Department of Labor, Washington, D.C., for the preceding month of June or alternatively, by an amount equal to the difference between the then current assessment and the projected assessment calculated by increasing the original assessment set forth therein by an amount equal to 10% compounded annually for each year from the date hereof, whichever is greater, without a vote of the Members of the Association. From and after January 1 of the year immediately following the conveyance of the first Lot by Declarant to an Owner, the maximum annual assessment may be increased above that established by the Consumer Price Index formula or the above mentioned percentage increase only by written approval of the Owners of two thirds (2/3) of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose. After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at an amount not in excess of the maximum amount approved by the Owners.

D. Special Assessments for Capital Improvement. In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction or unexpected repair or replacement of a particular capital improvement located upon the Common Area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the written approval of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose.

E. Notice of Quorum for Any Action Authorized Under Sections C and D. Written notice of any meeting of the Members of the Association called for the purpose of taking any action authorized under Sections C or D of this Article shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of the Members holding forty percent (40%) of all membership votes entitled to be cast in each membership class or their proxies shall constitute a quorum. If the required quorum is not present, additional meetings may be called subject to the same notice requirements and the required quorum at each subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

F. Rates of Assessment. Both annual and special assessments on all Lots, whether or not owned by the Declarant, must be fixed at uniform rates as follows:

1. **Occupied Lots.** Those Lots containing an occupied Living Unit (that is, a Living Unit that has been initially occupied, although it may no longer be occupied) shall be assessed the full assessment as set by the Board of Directors of the Association;

2. **Completed Living Unit.** Those Lots containing a substantially completed but unoccupied Living Unit (that is, a Living Unit that has not been initially occupied), shall be

assessed fifty percent (50%) of the full assessment as set by the Board of Directors of the Association;

3. Vacant Lots. Those Lots which are vacant shall be assessed at a rate equal to fifty percent (50%) of the full assessment as set by the Board of Directors of the Association. If such Owner fails to maintain said Lot in accordance with the requirements set forth in this Declaration, the Association is hereby authorized to do so and any expense the Association incurs thereby shall become a lien on the Lot and the general personal obligation of said Owner;

4. Residence Under Construction. Declarant at its sole option may waive assessments on those Lots upon which a residence is under construction; and

5. Exempt Lots. Those Lots which are owned by Declarant shall be exempt from assessments.

The Board of Directors of the Association will determine the classification of the Lots on the first day of January of each year after the first year.

G. Date of Commencement and Determination of Annual Assessment. The annual assessment provided for herein shall commence as to all Lots on a date fixed by the Board of Directors of the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. On or before the 30th day of November in each year, the Board of Directors of the Association shall fix the amount of the annual assessment to be levied against each Lot in the next calendar year. Written notice of the figure at which the Board of Directors of the Association has set the annual assessment shall be sent to every Owner whose Lot is subject to the payment thereof. However, the failure by the Board of Directors of the Association to fix an annual assessment for any year will not be deemed a waiver with respect to any of the provisions of this Declaration or a release of liability of any Owner to pay annual assessments, or any installments thereof, for that or any subsequent year. In the event of such failure, each Owner shall continue to pay the annual assessment established for the previous year until the new annual assessment is established. The new annual assessment established by the Board of Directors of the Association shall be applied retroactively to the commencement of the then current assessment year and the deficit shall be paid by each Owner within thirty (30) days after receipt of a statement therefor. Assessments shall be due and payable yearly in advance on the first day of January or as directed by the Board of Directors of the Association. The Association shall, upon demand, and for reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a particular Lot is binding upon the Association as of the date of its issuance.

H. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessments or charges which are not paid when due shall be delinquent. If an assessment or charge is not paid within thirty (30) days after the due date, it shall bear interest from the due date until paid at an annual rate of 18% or the maximum rate permitted by law, whichever is lower, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien herein retained against the Lot. Interest, costs, and reasonable attorneys' fees incurred in any such action shall be added to the amount of such assessment or charge. In order to secure the payment of the assessments or charges hereby levied, a lien for the benefit of the Association, shall be and is hereby reserved in the Deed from the Declarant to the purchaser of each Lot or portion thereof, which lien shall be enforceable through appropriate judicial and nonjudicial

proceedings by the Association. As additional security for payment of the assessments hereby levied, each Owner of a Lot in the Subdivision, by such party's acceptance of a deed thereto, hereby grants the Association a lien on such Lot which may be foreclosed on by nonjudicial foreclosure and pursuant to the provisions of Section 51.002 of the Texas Property Code (and any successor statute); and each such Owner hereby expressly grants the Association a power of sale in connection therewith. The Association shall, whenever it proceeds with nonjudicial foreclosure pursuant to the provisions of said Section 51.002 of the Texas Property Code and said power of sale, designate in writing a Trustee to post or cause to be posted all required notices of such foreclosure sale and to conduct such foreclosure sale. The Trustee may be changed at any time and from time to time by the Association by means of a written instrument executed by the President or any Vice President of the Association and filed for record in the Official Public Records of Guadalupe County, Texas. In the event that the Association has determined to nonjudicially foreclose the lien provided herein pursuant to the provisions of said Section 51.002 of the Texas Property Code and to exercise the power of sale hereby granted, the Association shall mail to the defaulting Owner a copy of the notice of Trustee's Sale not less than twenty-one (21) days prior to the date of which sale is scheduled by posting such notice through the U.S. Postal Service, postage prepaid, registered or certified, return receipt requested, properly addressed to such Owner at the last known address of such Owner according to the records of the Association. If required by law, the Association or Trustee shall also cause a copy of the Notice of Trustee's Sale to be recorded in the Official Public Records of Guadalupe County, Texas. Out of the proceeds of such sale, there shall first be paid all expenses incurred by the Association in connection with such default, including such reasonable attorney's fees and a reasonable trustee's fee; second, from such proceeds there shall be paid to the Association an amount equal to the amount of default; third, any amounts required by law to be paid before payment to the foreclosure, each occupant of any such Lot foreclosed on and each occupant of any improvements thereon shall be deemed to be a tenant at sufferance and may be removed from possession by any and all lawful means, including a judgment for possession in an action of forcible detainer and the issuance of a writ restitution thereunder.

In addition to foreclosing the lien hereby retained, in the event of nonpayment by any Owner of such Owner's portion of any assessment, the Association may, acting through the Board, upon ten (10) days' prior written notice thereof to such nonpaying Owner, in addition to all other rights and remedies available at law or otherwise, restrict the rights of such nonpaying Owner to use the Common Areas, if any, in such manner as the Association deems fit or appropriate and/or suspend the voting rights of such nonpaying Owner so long as such default exists.

No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot. In addition to the above rights, the Association shall have the right to refuse to provide the services of the Association to any Owner who is delinquent in the payment of the above described assessments.

I. Subordination of the Lien to Mortgages. As hereinabove provided, the title to each Lot shall be subject to a vendor's lien and power of sale and nonjudicial foreclosure securing the payment of all assessments and charges due the Association, but said vendor's lien and power of sale and nonjudicial foreclosure shall be subordinate to any valid first lien or mortgage and any valid lien securing the cost of construction improvements. Sale or transfer of any Lot shall not affect said vendor's lien or power of sale and nonjudicial foreclosure. However, the sale or transfer of any Lot or improvements which is subject to any valid first lien or mortgage or lien securing the construction of improvements, pursuant to a judicial or nonjudicial foreclosure under such lien or mortgage or any conveyance in satisfaction of such debt (commonly called a "deed in

lieu of foreclosure") shall extinguish the vendor's lien and power of sale and nonjudicial foreclosure securing such assessment or charge only as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot or improvements thereon or the Owner thereof from liability from any charges or assessments thereafter becoming due or from the lien thereof. In addition to the automatic subordination provided hereinabove, the Association, in the discretion of its Board of Directors, may subordinate the lien securing any assessment provided for herein any other mortgage, lien or encumbrance, subject to such limitations, if any, as such Board may determine. A mortgagee shall have no responsibility to collect assessments, however, failure to pay assessments shall not constitute a default under a HUD or VA mortgage.

J. Exempt Property. All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Texas shall be exempt from the assessments and charges created herein. Notwithstanding the foregoing, no Lot or improvements thereon which is used as a residence shall be exempt from said assessments and charges.

K. Savings Clause. All agreements between any Owner and the Association and/or Declarant, whether now existing or hereafter arising, and whether written or oral, and whether implied or otherwise, are hereby expressly limited so that in no contingency or event whatsoever shall the amount of interest collected, charged, or received by the Association and/or Declarant for the payment or performance of any covenant or obligations contained herein or in any other document related hereto exceed the maximum amount of interest permitted to be collected, charged, or received under applicable law. If from any circumstance whatsoever, the fulfillment of any provision hereof or of such other document at the time performance of such provision shall be due, shall involve exceeding the limit of validity prescribed by law, then, ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity, and if from any such circumstance the Association and/or Declarant should ever collect, charge, or receive an amount deemed to be collected, charged, or received under applicable law, such amount which would be excessive interest shall be applied to the reduction of the principal amount owing on such obligation and not to the payment of interest, or if such excess interest exceeds the principal balance of the assessment or other obligation, the excess shall be refunded to the Owner or other obligor. The right to accelerate the maturity of any assessment or other obligation owing to Declarant or the Association shall not include the right to accelerate the maturity of any interest which has not otherwise accrued on the date of such acceleration, and Declarant and the Association do not intend to collect any unearned interest in the event of acceleration. All sums paid or agreed to be paid by any Owner for the use, forbearance or detention of any indebtedness to the Association and/or Declarant shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term of such indebtedness until payment in full so that the actual rate of interest on account of such indebtedness is uniform throughout the term thereof. The terms and provisions of this paragraph shall control and supersede any other provision of this Declaration and any other agreement between any Owner and the Association and/or Declarant. The maximum lawful rate shall be determined by utilizing the indicated rate ceiling from time to time in effect pursuant to Tex. Rev. Civ. Stat. Art. 5069-1.04, as amended. In no event shall the provisions of Chapter 15 of the Texas Credit Code (Tex. Rev. Civ. Stat. Art. 5069-1501, et seq.) be applicable to any assessment or obligation.

ARTICLE X INSURANCE

The Association, through the Board of Directors, or its duly authorized agent, shall have

the authority to obtain the following types of insurance policies:

(a) Property insurance covering the Common Area and all improvements thereon in an amount equal to the full replacement value of the improvements and facilities located upon the Common Area and owned by the Association (including all building service equipment and the like) with an *"agreed amount endorsement"* or its equivalent, a *"demolition endorsement"* or its equivalent and, if necessary an *"increased cost of construction endorsement"* or *"contingent liability from operation of building laws endorsement"* or the equivalent, affording protection against loss or damage by fire and other hazards covered by the standard extended coverage endorsement in Texas, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage, and any such other risk as shall customarily be covered with respect to projects similar in construction, location and use; and

(b) A comprehensive policy of public liability insurance covering all of the Common Area and insuring the Association, within such limits as it may consider acceptable (for all claims for personal injury and/or property damage arising out of a single occurrence); such coverage to include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others, and any other covering the Association deems prudent and which is customarily carried with respect to projects similar in construction, location and use; and

(c) A policy of fidelity coverage to protect against dishonest acts on the part of officers, directors, trustees, and employees of the Association and all others who handle, or are responsible for handling funds of the Association; such fidelity bonds shall be of the kind and in an amount the Association deems necessary for the protection of the Owners.

Premiums for all such insurance policies carried by the Association shall be a common expense payable from the annual assessments on all of the Lots. Liability and property insurance for Lots and the contents of residences shall be the responsibility of each individual Owner. All proceeds from policies held by the Association shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a federal governmental agency, with the provision agreed to by said bank or institution that such funds may be withdrawn only by signature of at least two (2) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors. In no event shall the insurance company or the bank or other financial institution holding proceedings on a policy issued in the name of the Association be authorized to distribute any proceeds therefrom to the Declarant. Proceeds from such policies shall be used by the Association only for the benefit of its Members and where such proceeds arise out of an occurrence in which a building or improvement owned by the Association is damaged or destroyed, they shall be used to repair, restore, and rebuild such building or improvements. In the latter event, the Board of Directors shall advertise for sealed bids from licensed contractors, and upon acceptance of a bid received thereby, may negotiate with the contractor, who shall be required to provide a full performance and payment bond for the repair, reconstruction, or rebuilding of such destroyed improvements or buildings. In the event the insurance proceeds are insufficient to pay all costs of repairing and/or rebuilding said improvements to their original condition, the Association shall levy a special assessment for capital improvements against all Owners to make up the deficiency. This shall be done only after compliance with all the requirements for imposition of special assessments.

ARTICLE XI
TAXES

The Association shall render for taxation and, as part of the common expense of all Owners, shall pay all taxes levied or assessed against or upon the Common Area and the improvements and property located thereto.

ARTICLE XII
UTILITY BILLS

The Association shall pay, as a common expense of all Owners, for all water, electricity, and other utilities used in connection with the enjoyment and operation of the Common Area or any part thereof.

ARTICLE XIII
MANAGEMENT AGREEMENTS

Each Owner hereby agrees to be bound by the terms and conditions of all management agreements entered into by the Association for the management of the Common Area and the facilities located thereon. The management agreement may be reviewed by any Owner during normal business hours and by appointment only with the Association. Copies of any documents will be given to Members at the Member's costs. Any and all management agreements entered into by the Association shall provide that the Association may cancel said management agreement by giving the other party thirty (30) days' written notice when so authorized by the vote of the Board of Directors of the Association. In no event shall such management agreement be cancelled prior to the time the Association or its Board of Directors negotiate and enter into a new management agreement which is to become operative immediately upon the cancellation of the preceding management agreement. It shall be the duty of the Association or its Board of Directors to effect a new management agreement prior to the expiration of any prior management contract. Any and all management agreements shall be for a term not to exceed one (1) year and shall be made with a professional and responsible party or parties with proven management skills and experience managing a project of this type.

ARTICLE XIV
ANNEXATION

A. General. Additional property may become subject to this Declaration in any of the following manners:

1. The Declarant may add or annex additional real property from time to time to the scheme of the Declaration by filing of record an appropriate enabling Declaration of Covenants, Conditions, and Restrictions that extends the scheme of this Declaration to such property; provided, however, that such other declaration may contain such additions and modifications of the provisions contained in this Declaration as may be necessary, as determined by the Declarant in its sole discretion, to reflect the different character, if any, of the added property; or

2. In the event any person or entity other than the Declarant desires to add or annex additional residential and/or Common Areas to the scheme of this Declaration, such annexation proposal must have the prior written consent and approval of the Declarant and the

affirmative vote of a majority of Members (as defined in Article VII, Section B) at a meeting of the Members called for such purpose.

3. Any additions made pursuant to paragraphs (a) and (b) above, when made, shall automatically extend the jurisdiction, functions, duties, and membership of the Association to the properties added and correspondingly subject the properties added to the covenants of the enabling declaration.

4. Upon any merger or consolidation of the Association with another association, its properties, rights, and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration, together with the covenants and restrictions established upon any other properties, as one scheme.

5. Annexation of additional properties, mergers and consolidations, dedication or mortgaging of Common Area, dissolution of the Association, and amendment of the Articles, requires prior approval of HUD/VA as long as there is a Class B membership.

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B. Power of Attorney. Each Owner, shall, by accepting the deed to his Lot, be deemed to have appointed Declarant as his attorney-in-fact for the purpose of effecting the annexation of additional real property from time to time to the scheme of the Declaration; and the power herein granted to Declarant shall be, and is, a power coupled with an interest which shall survive the death or incapacity of the principal.

ARTICLE XV GENERAL PROVISIONS

A. Enforcement. The Association or any Owner shall have the right to enforce, by any proceeding a law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by reason of the provisions contained in this Declaration of Covenants, Conditions, and Restrictions. Failure of the Association or any Owner to enforce any of the provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

B. Duration and Amendment. The covenants, conditions, restrictions, reservations, liens, and charges set forth in this Declaration shall run with the land and shall be binding upon and inure to the benefit of the Association, all Owners, their respective legal representatives, heirs, successors and assigns for a term of forty (40) years from the date this Declaration of Covenants, Conditions, and Restrictions is filed with the County Clerk of Guadalupe County, Texas, for recordation in the Official Public Records of Guadalupe County, Texas, after which time said covenants, conditions, restrictions, reservations, liens, and charges shall be automatically extended and renewed for successive periods of ten (10) years each, unless prior to said renewal date an instrument signed and acknowledged by the then Owners of not less than two-thirds (2/3) of the total number of Lots in the Subdivision is filed for record with the County Clerk of Guadalupe County, Texas, altering, rescinding, or modifying said covenants and restrictions in whole or in part as of said renewal date. Notwithstanding anything to the contrary herein contained, it is expressly understood and agreed that the Owners of two-thirds (2/3) of the total number of Lots in the Subdivision shall always have the power and authority to amend this Declaration and such amendment shall become effective on the date an instrument, signed, and acknowledged by the

then Owners of not less than two-thirds (2/3) of the total number of Lots in the Subdivision is filed for record in Guadalupe County, Texas, so amending said Declaration of Covenants, Conditions, and Restrictions. In addition, Declarant shall have the right at any time and from time to time, without the joinder or consent of any other party, to amend this Declaration of Covenants, Conditions, and Restrictions by any instrument in writing duly signed, acknowledged, and filed for record in the Official Public Records of Guadalupe County, Texas, for the purpose of correcting any typographical or grammatical error, ambiguity, or inconsistency appearing herein, or for the purpose of complying with any statute, regulation, ordinance, resolution, or any federal, state, county, or municipal governing body, or any agency or department thereof; provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by this Declaration of Covenants, Conditions, and Restrictions and any supplemental declarations taken collectively, and shall not impair or affect the vested property rights of any Owner or his mortgagee.

C. Condemnation. If part or all of the Common Area shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be paid to the Association. The Board of Directors shall have the right to act on behalf of the Association with respect to the negotiation and litigation of the taking or condemnation issues affecting such Common Area. The Association acting by and through its Board of Directors may determine to distribute the proceeds of any condemnation or taking by eminent domain to each Member and his mortgagee, if any, as their interests may appear. In the event that the Association does not so determine, such proceeds shall be added to the funds of the Association, and the Association shall decide on whether or not to replace or restore, as far as possible, the Common Area so taken or damaged. The Association shall give timely written notice of the existence of such proceedings to all Members and their mortgagees of record, if any. The expense of participation in such proceedings shall be a common expense of the Association chargeable to the Members.

D. Canvassing. Where this Declaration of Covenants, Conditions, and Restrictions requires that an instrument be executed by a certain percentage number of the members or Owners, such instrument may be circulated among the Members or Owners by a door-to-door canvass and need not be presented at any meeting of the Members or otherwise, provided the Board of Directors of the Association is notified in writing by certified mail, return receipt requested, of the fact that an action is contemplated by a canvassing of the Members or the Owners.

E. Severability. If any provision of this Declaration of Covenants, Conditions, and Restrictions or the application thereof to any person or circumstance shall, for any reason or to any extent, be invalid or unenforceable, neither the remainder of this Declaration of Covenants, Conditions, and Restrictions nor the application of such provision to other persons or circumstances shall be affected thereby, but shall be enforced to the fullest extent permitted by law.

F. Gender and Number. Whenever used, the singular number shall include the plural, the plural singular, and the use of any gender shall be applicable to all genders.

G. Headings. The paragraph headings herein are inserted for convenience of reference only and shall in no way alter, modify or define, or be used in construing the text of such paragraphs.

II. Disclaimer of Warranty. Declarant makes no warranty, express or implied, regarding Country Club Estates, later phases of the Country Club Estates development, or any improvement

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to or improvements on Country Club Estates, or later phases of the Country Club Estates development, the condition of Country Club Estates, or later phases of the Country Club Estates development, the sufficiency of utilities, the workmanship, design or materials used in every improvement, including, without limitation, Common Area and including, without limitation, any express or implied warranty of merchantability, liability, fitness, or suitability for any particular purpose or use or any warrant of quality.

IN WITNESS WHEREOF, this Declaration of Covenants, Conditions, and Restrictions is executed on this 21st day of November, 1995.

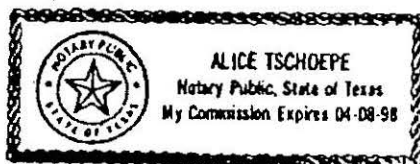
SEGUIN COUNTRY CLUB ESTATES, L.L.C.

BY: James A. Stewart
James A. Stewart, President

ACKNOWLEDGMENT

THE STATE OF TEXAS
COUNTY OF GUADALUPE

This instrument was acknowledged before me on the 21st day of November, 1995, by James A. Stewart, President of Seguin Country Club Estates, L.L.C., a Texas limited liability company on behalf of said limited liability company.



Alice Tschoepe
NOTARY PUBLIC,
STATE OF TEXAS

After recording, please return to:
Moore & Pape, L.L.P.
434 N. Travis
Seguin, Texas 78155-4934

FILED FOR RECORD

95 NOV 21 PM 2:54

LIZZIE H. LORING
COUNTY CLERK GUADALUPE CTY.

BY Lizzzie H. Loring

THE STATE OF TEXAS
COUNTY OF GUADALUPE

I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me and was duly recorded in the Official Public Records of Guadalupe County, Texas.



Lizzzie H. Loring
County Clerk,
Guadalupe County Texas