

**AFTER RECORDING RETURN TO:**

Hill Country II-B HOA, INC
PO Box 91234
Austin, Texas 78709

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**AMENDED AND RESTATED COVENANTS, CONDITIONS, AND RESTRICTIONS
HILL COUNTRY, PHASE II-B**

Cross reference to that certain Declaration of Covenants, Conditions, and Restrictions Hill Country, Phase II-B, recorded at Volume 13380, Page 1057, of the Real Property Records of Travis County, Texas, as amended by that certain Declaration of Amended Covenants, Conditions, and Restrictions Hill Country, Phase II-B, recorded at Document No. 2012129360 of the Official Public Records of Travis County, Texas, together with any and all amendments or supplements thereto.

**AMENDED AND RESTATED COVENANTS, CONDITIONS, AND RESTRICTIONS
HILL COUNTRY, PHASE II-B**

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF TRAVIS

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WHEREAS, that certain real property known as Lots 1 through 31, inclusive, of HILL COUNTRY, PHASE II-B, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Book 101, Pages 190-192 of the Plat Records of Travis County, Texas (the "Property") is subject to and governed by that certain Declaration of Covenants, Conditions, and Restrictions Hill Country, Phase II-B, recorded at Volume 13380, Page 1057, of the Real Property Records of Travis County, Texas, as amended by that certain Declaration of Amended Covenants, Conditions, and Restrictions Hill Country, Phase II-B, recorded at Document No. 2012129360 of the Official Public Records of Travis County, Texas (collectively, the "Original Declaration").

WHEREAS, the Original Declaration establishes Hill Country II-B Homeowners Association, Inc. as the property owners' association and makes the owners of the Property mandatory members of such property owners' association;

WHEREAS, members of Hill Country II-B Homeowners Association, Inc. desire to amend and restate the Original Declaration governing the Property;

WHEREAS, Section 209.0041 of the Texas Property Code provides that a declaration may be amended by a vote of no more than sixty-seven percent (67%) of the total votes allocated to property owners in a property owners' association and that such provision supersedes any contrary requirement in a dedicatory instrument.

WHEREAS, In accordance with the foregoing requirements, members of the Hill Country II-B Homeowners Association, Inc. representing at least sixty-seven percent (67%) of the total votes allocated to property owners in the Hill Country II-B Homeowners Association, Inc. approved this Amended and Restated Declaration of Covenants, Conditions and Restrictions Hill Country, Phase II-B (hereinafter referred to as the "Restated Declaration"), at a meeting of the Association's membership conducted on the 26 day of June, 2024.

NOW THEREFORE, it is hereby declared that:

1. The Original Declaration is hereby amended in its entirety and entirely replaced by this Restated Declaration, and such Original Declaration shall have no further force or effect upon the Property; and
2. All of the Property shall hereafter be held, sold, conveyed and occupied subject to the easements, restrictions, covenants and conditions declared below, which shall be deemed to be covenants running with the land and imposed on and intended to benefit and burden each Lot and other portions of the Property in order to maintain within the Property a planned community of high standards. Such covenants shall be binding on all parties having any right, title or interest

therein or any part thereof, their respective heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

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

1.1 **Architectural Committee.** "Architectural Committee" shall mean the committee created pursuant to these restrictions to review and approve plans for the construction of Improvements upon the Property.

1.2 **Architectural Committee Rules.** "Architectural Committee Rules" shall mean the rules and regulations adopted by the Architectural Committee, as the same are amended from time to time.

1.3 **Articles.** "Articles" shall mean the Articles of Incorporation of Hill Country II-B Homeowners Association, Inc., which will be filed in the office of the Secretary of State of the State of Texas, as the same are from time to time amended.

1.4 **Assessment.** "Assessment" or "Assessments" shall mean assessment(s) levied by the Association under the terms and provisions of this Declaration.

1.5 **Association.** "Association" shall mean and refer to Hill Country II-B Homeowners Association, Inc., a Texas non-profit corporation, if created.

1.6 **Association Rules.** "Association Rules" shall mean the rules and regulations adopted by the Board as the same may be amended from time to time.

1.7 **Board.** "Board" shall mean the Board of Directors of the Association.

1.8 **Bylaws.** "Bylaws" shall mean the Bylaws of the Association, which may be adopted by the Board, as the same are from time to time amended.

1.9 **Common Area and Facilities.** "Common Area and Facilities" shall mean Lots and other properties designated by Declarant and conveyed (whether in fee simple or by easement) to the Association to be owned, held and/or maintained by the Association for the common benefit of the Owners. Common Area and Facilities may be designated by Declarant and dedicated or otherwise conveyed to the Association from time to time and at any time.

1.10 **Declarant.** "Declarant" shall mean George Wimpey of Texas, Inc., its duly authorized representatives or their respective successors or assigns; provided that any assignment of the rights of George Wimpey of Texas, Inc. as Declarant must be expressly set forth in writing and filed of record in the Real Property Records of Travis County, Texas. The mere conveyance of a portion of the Property without such specific written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder.

1.11 **Declaration.** "Declaration" shall mean this instrument as it may be amended from time to time

1.12 **Improvement.** "Improvement" shall mean every structure and all appurtenances thereto of every type and kind including but not limited to, buildings, outbuildings, storage sheds, playscapes, patios, tennis courts, basketball goals, swimming pools, recreational or athletic equipment, garages, storage buildings, fences, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, exterior air conditioning, 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.

1.13 **Lot.** "Lot" or "Lots" shall mean any parcel or parcels of land within the Property shown as a subdivided lot on the Plat of the Subdivision, together with all Improvements located thereon, but shall not include any Lot that is designated as Common Area and Facilities.

1.14 **Member.** "Member" or "Members" shall mean any person(s), entity or entities holding membership rights in the Association.

1.15 **Mortgage.** "Mortgage" or "Mortgages" shall mean any mortgage(s) or deed(s) of trust covering any portion of the Property given to secure the payment of a debt.

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

1.17 **Owner.** "Owner" or "Owners" shall mean the person(s), entity or entities, including Declarant, holding a fee simple interest in any portion of the Property, but shall not include the Mortgagee of a Mortgage. The term "Owner," however, shall include a Mortgagee or lienholder who acquires fee simple title to any Lot through judicial or nonjudicial foreclosure or by a conveyance in lieu thereof. When matters within this Declaration require a vote of the Owners, each Owner shall be entitled to one (1) vote for each Lot so owned. When a Lot is held jointly or in common by more than one Owner, the joinder of all such Owners shall be required to cast the one vote with respect to such Lot; unless the Owners designate in writing one or more Owner(s) among them who shall be entitled to cast such one vote and no other person shall be authorized to vote on behalf of the Lot.

1.18 **Person.** "Person" or "Persons" shall mean any individual(s), entity or entities having the legal right to hold title to real property.

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

1.20 **Plat.** "Plat" shall mean the subdivision plats pertaining to the Property as the same

may be amended from time to time.

1.21 **Restrictions.** "Restrictions" shall mean this Declaration, as the same may be amended from time to time, together with the Association Rules, the Architectural Committee Rules, and the Articles and Bylaws.

1.22 **Visible.** "Visible" shall mean able to be seen by a person of not more than six (6) feet in height standing on the natural grade of the boundary of a Lot and the adjacent Lot, street or other portion of the Property, as applicable.

1.23 **Subdivision.** "Subdivision" shall mean a portion of the Property which is subdivided by virtue of a final subdivision plat which is filed of record in the Plat Records of Travis County, Texas.

1.24 **Supplemental Declaration.** "Supplemental Declaration" shall mean and refer to any declaration of covenants, conditions and restrictions which may be recorded hereafter in order (i) to add to the Property, or (ii) to subject any area of the Property to further covenants, conditions or restrictions.

ARTICLE II

DEVELOPMENT OF THE PROPERTY

2.1. **Addition of Land by Declarant.** Declarant may, at any time and from time to time, add land to the Property, and upon the filing of a notice of addition of land as hereinafter described, this Declaration and the covenants, conditions, restrictions, and obligations set forth herein (as modified or amended by the covenants, conditions, restrictions and obligations, if any, set forth in Supplemental Restrictions affecting such added lands), and the rights, privileges, duties, and liabilities of the persons subject to this Declaration shall be the same with respect to the added land as with respect to the lands originally covered by this Declaration. In order to add lands to the Property hereunder, Declarant shall be required only to record in the Real Property Records of Travis County, Texas, a notice of addition of land containing the following provisions:

- (A) A reference to this Declaration, which reference shall state the document number of the Travis County Official Public Records wherein this Declaration is recorded;
- (B) A statement that the provisions of this Declaration shall apply to the added land; and
- (C) A legal description of the added land.

ARTICLE III

GENERAL RESTRICTIONS

All of the Property shall be owned, held, encumbered, leased, used, occupied, and enjoyed subject to the following limitations and restrictions:

3.1. **Subdividing.** No Lot shall be further divided or subdivided, nor may any easements or other interests therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Architectural Committee; provided, however, that when Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot and convey any easements or other interests less than the whole, all without the approval of the Architectural Committee.

3.2. **Hazardous Activities.** No activities shall be conducted on the Property and no Improvements constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged upon the Property, no open fires shall be lighted or permitted except within safe and well-designed interior fireplaces, or in contained barbecue units while attended and in use for cooking purposes.

3.3. **Insurance Rates.** Nothing shall be done or kept on the Property which would increase the rate of insurance or cause the cancellation of insurance on any Lot or any of the Improvements located thereon.

3.4. **Mining and Drilling.** No portion of the Property shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, including but not limited to rocks, stones, sand, gravel, aggregate, earth. However, an Owner may be permitted to drill for water on their own Property, provided it meets any conditions contained elsewhere in the Declaration and has the prior approval of the Architectural Committee.

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

3.6. **Nuisance.** No noxious or offensive activities shall be permitted to exist or operate upon any portion of the Property, nor shall anything be done upon the Property which may be offensive or detrimental to any portion of the Property or to its occupants.

3.7. **Animals - Household Pets.** No animals, including pigs, hogs, swine, poultry, fowl, wild animals, horses, cattle, sheep, goats, or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept, maintained, or cared for on the Property. No Owner may keep on such Owner's Lot more than four (4) cats and dogs, in the aggregate. No animal shall be allowed to make an unreasonable amount of noise, or to become a nuisance, and no domestic pets will be allowed on the Property other than on the Lot of its Owner unless confined to a leash. No animal may be stabled, maintained, kept, cared for, or boarded for hire or remuneration on the Property, and no kennels or breeding operation will be allowed. No animal shall be allowed to run at large, and all animals shall be kept within enclosed areas which must be clean, sanitary, and reasonably free of refuse, insects, and waste at all times. Such enclosed area shall be constructed in accordance with plans approved by the Architectural Committee, shall be of reasonable design and construction to adequately contain such animals in accordance with the provisions hereof, and shall be screened

- (D) No more than three (3) political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal, provided that such sign shall not be erected more than ninety (90) days in advance of an election to which the signs pertain and are removed within fifteen (15) days after such election.

3.12. **Tanks and Pumps.** Subject to the provisions of Section 202.007 of the Texas Property Code, the Association shall have the right to approve the location of any tank, barrel or pump used or proposed in connection with a single-family residential structure, including tanks and barrels for storage of fuel, water, oil or LPG and including swimming pool filter tanks and swimming pool and well-water pumps. All tanks, barrels and pumps shall be screened so as not to be visible from any adjacent lot, street or other portion of the property. No installation under this Section will be allowed without the prior written approval of the Architectural Committee.

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

3.14. **Athletic and Recreational Facilities.** Outdoor athletic and recreational facilities such as swing sets and sport courts of either a permanent or temporary nature shall not be placed upon any Lot between any roadway within the Property and the front of the single family residential structure located upon the Lot Notwithstanding the foregoing provision, basketball goals shall be permitted; provided, however, the basketball goal must be (i) attached to a free standing pole, (ii) located on the principal driveway of the single-family residential structure located, upon the Lot, and (iii) positioned no closer than fifty (50) feet from the nearest curb of the roadway adjacent to and intersecting the driveway.

3.15. **Window Treatment.** No aluminum foil, reflective film or similar treatment shall be placed on any Improvement located upon a Lot.

3.16. **Unsightly Articles; Vehicles.** No article deemed to be unsightly by the Architectural Committee shall be permitted to remain on any Lot so as to be visible from adjoining property or from public or private thoroughfares. Without limiting the generality of the foregoing, trailers, graders, trucks other than one-ton passenger pickups, racing vehicles, boats, tractors, campers, wagons, buses, garden maintenance equipment, and automobiles without a current license tag (if required by law) shall be kept at all times except when in actual use, in enclosed structures or screened so as to not be visible from any adjacent Lot, street or other portion of the Property and no repair or maintenance work shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in enclosed garages or other structures. Service areas, storage areas, and compost piles shall be appropriately screened so as to not be visible from any adjacent Lot, street or other portion of the Property, and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials, or scrape or refuse or trash

so as not to be visible from any adjacent Lot, street or other portion of the Property.

3.8. **Rubbish and Debris.** No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property, and no odors shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive, or detrimental to any other property or to its occupants. Refuse, garbage, and trash shall be kept at all times in covered containers, and such containers shall be appropriately screened so as to not be visible from any adjacent Lot, street or other portion of the Property. Covered containers containing refuse, garbage, or trash may be placed in front of a single family residence located upon the Lot and next to the roadway adjacent to such Lot for waste service collection but must be removed and screened so as to not be visible from any adjacent Lot, street or other portion of the Property on or before twelve (12) hours after such covered container has been emptied by waste service collection.

3.9. **Maintenance.** Each Owner shall keep all shrubs, trees, grass, and plantings of every kind on such Owner's Lot cultivated and pruned (except for undisturbed natural areas with native vegetation) and free of trash and other unsightly material. All Improvements upon any Lot shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner of such Lot. Declarant, the Association, and the Architectural Committee shall have the right, but not the obligation, at any reasonable time to enter upon any Lot to replace, maintain, and cultivate shrubs, trees, grass, or other plantings as deemed necessary, and to paint, repair, or otherwise maintain any Improvements in need thereof. Any and all costs and expenses incurred by the Declarant, the Association, or the Architectural Committee to remedy any Owner's violation of this Section 3.9 shall be charged against such Owner's Lot as provided in Section 5.4(F).

3.10. **Towers/Antennas.** No antenna, satellite dish or other device for the transmission or reception of television signals, radio signals or any other form of electromagnetic radiation which is visible from the exterior of a residence shall be erected, used or maintained on any Lot except with the written approval of the Architectural Committee; provided, however, that one (1) satellite dish receiver no greater than one (1) meter in diameter may be located on a Lot so long as the satellite dish is not visible from the street located adjacent to the front lot line of said Lot.

3.11. **Signs.** Except for signs which are a part of Declarant's overall marketing plan for the Property, no sign of any kind shall be displayed on any Lot except:

- (A) A builder who is engaged in construction of a single-family residence upon a Lot may advertise such Lot and any residential structure thereon for sale until such time as the Lot and/or any residential structure situated thereon is sold;
- (B) Any Owner may display one (1) sign of not more than six (6) square feet on said Owner's Lot to advertise such Lot or any residential structure located thereon for sale or rent;
- (C) Signs required for legal proceedings; and

shall be kept, stored, or allowed to accumulate on any portion of the Property except within enclosed structures or appropriately screened so as to not be visible from any adjacent Lot, street or other portion of the Property. FACILITIES FOR HANGING, DRYING OR AIRING CLOTHING OR HOUSEHOLD FABRICS SHALL NOT BE PERMITTED ON ANY LOT.

3.17. **Mobile Homes, Travel Trailers and Recreational Vehicles.** No mobile homes shall be parked or placed on any Lot or used as a residence, either temporary or permanent, at any time. No motor homes, travel trailers, boats, water craft or recreational vehicles shall be stored and parked on or near any Lot so as to be visible from adjoining property or from public or private thoroughfares at any time; provided, that the foregoing shall not prohibit or prevent the temporary parking of motor homes, travel trailers, boats, water craft or recreational vehicles during periods when the same are being cleaned or loaded or unloaded and are not left unattended.

3.18. **Garages.** Each single-family residential structure located upon a Lot shall have sufficient garage space to accommodate at least two (2) automobiles. All garages shall be maintained for the storage of automobiles, and no garage may be enclosed or otherwise used for habitation.

3.19. **Sight Distance at Intersection.** No fence, wall, hedge or shrub planting that obstructs sightlines at elevations between two (2) and nine (9) feet above the roadway 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 thirty (30) 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 the triangular area formed by the street line, a driveway or alley line and a line connecting them at points ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. All tree foliage within such distances of intersections shall be maintained to meet the sight-line requirements set forth above. Notwithstanding the foregoing or anything in this Declaration to the contrary, at a minimum, sight distances required by any applicable governmental authority shall be complied with.

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

3.21. **Window Units.** No window or wall-type air conditioner shall be permitted to be used, placed or maintained on or in any Improvement located upon the Property, without the advance written consent of the Architectural Committee.

3.22. **No Warranty of Enforceability.** While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this Article or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms, or provisions. Any Owner acquiring a Lot

in reliance on one or more of such restrictive covenants, terms, or provisions shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom. "

ARTICLE IV

USE AND CONSTRUCTION RESTRICTIONS

4.1. **Approval for Construction.** No Improvements shall be constructed upon any Lot without the prior written approval of the Architectural Committee.

4.2. **Residential Use.** All Lots shall be improved and used solely for single- family residential use, inclusive of a garage, fencing and such other Improvements as are necessary or customarily incident to residential use

4.3. **Commercial or Industrial Use.** No Lot or Improvement shall be used for manufacturing, industrial, business, commercial, institutional or other non-residential purpose, other than those non-residential purposes set forth in Section 9.5. Notwithstanding any other provision in this Section 4.3 or the Declaration to the contrary, "garage sales" shall be permitted provided that no Owner shall conduct more than one (1) garage sale of no more than two (2) days' duration during any six (6)-month period.

4.4. **Leasing.**

- (A) As used in this Declaration, "lease," "leasing" or equivalent means occupancy of a Lot by a person other than an Owner with the Owner's consent, express or implied, or for which the Owner receives any consideration or benefit, including without limitation, any fee, service, gratuity or emolument, regardless of whether or not such occupancy is pursuant to a written lease. "Lessee" includes any occupant as aforesaid pursuant to a lease.
- (B) No Lot may be leased other than for use as a single family residence as herein provided and defined. No Owner may lease a Lot and attendant use of the residence and improvements thereon for transient or hotel purposes.
- (C) No lease may be for an initial term of less than six (6) months, other than a lease of an Owner's Lot to a third-party in connection with the sale of such Owner's Lot to such third-party. An Owner shall not lease his or her Lot more than one (1) time in any contiguous six (6) month period.
- (D) No Owner may lease less than an entire Lot and attendant use of the residence and improvements thereon.
- (E) All leases: (i) must be in writing; and (ii) are specifically subject in all respects to all provisions of this Declaration and Association Rules (whether or not expressly stated in the Lease), and any failure by lessee to comply with this Declaration or the Association Rules will be a default under the lease. An Owner leasing his or her Lot shall submit a copy of the written lease agreement to the Association on

or before the earlier of: (a) five (5) business days from the execution of the lease agreement; or (b) the occupancy of the Lot by the lessee.

- (F) The Board is authorized to assess fines against any Owner who violates Section 4.4 of this Declaration, provided it has complied with the statutory procedures established by Chapter 209 of the Texas Property Code. The Board may fix the amount of a fine for each violation on a case by case basis and the frequency for the assessment thereof, such as monthly, weekly or daily. Alternatively, the Board may adopt fining schedules and other applicable rules and regulations regarding fines. In the latter event, the Board shall nonetheless retain full authority to adjust any fines as in its sole judgment the circumstances may require. Fines may be progressive, such as setting of increasing fine amounts for a first violation, second violation and subsequent violations, a second or subsequent violation meaning any violation which is similar to any prior violations which occur within six months after the date of the first violation notice given in accordance with Chapter 209 of the Texas Property Code.

4.5. **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 applicable governmental specifications.

4.6. **Detached Buildings.** No detached accessory buildings, including, but not limited to, detached garages and storage buildings, shall be erected, placed or constructed upon any Lot without the prior written consent of the Architectural Committee. Every detached accessory building shall be compatible with the design of and materials utilized in the single-family residential structure located upon the Lot and shall not be visible from the street located adjacent to the front lot line of said Lot. Notwithstanding any other provision in the Declaration to the contrary, in no event shall any detached accessory building exceed eight feet (8') in height, eight feet (8') in width, and ten feet (10') in length.

4.7. **Building Height.** No Improvement greater than thirty-five feet (35') in height may be constructed on any Lot without the prior written approval of the Architectural Committee. For purposes of this paragraph, height shall be measured from the top of the foundation slab of the proposed Improvement to the ridge line of the roof of the proposed Improvement.

4.8. **Obstruction of Views.** No Improvement may be constructed on any Lot which (i) would unreasonably obstruct the view from other portions of the Property, or (ii) unreasonably interfere with the privacy of an adjoining Lot Owner. The location of any Improvement upon a Lot shall be approved, prior to construction, by the Architectural Committee. Approval by the Architectural Committee may be conditioned upon setbacks which are greater than the setback requirements set forth on the Plat or established by any municipal ordinance. The Architectural Committee may, but shall not be required to, prevent or allow the construction of a proposed Improvement based upon the effect it will have on (i) the view from any particular Lot, (ii) the privacy of an adjoining Lot Owner, or (iii) the effect the location of the Improvement will have

on the Property as a whole. Each Owner acknowledges and agrees that neither the Architectural Committee nor the members thereof shall be liable to any Owner for monetary damages or otherwise due to the construction of any Improvement within the Property or the creating thereby of an obstruction to the view from such Owner's Lot or Lots or an effect on such Owner's privacy.

4.9 **Fences.** Fence setback requirements may be established by the Architectural Committee in addition to those set forth on the Plat in order to comply with the requirements of Section 3 .19. All fences located upon any portion of the Property shall be not less than four (4) feet or more than six (6) feet in height and shall be constructed of wood or masonry, unless advance written approval is obtained from the Architectural Committee. No chain metal, cloth or agricultural fences may be constructed or maintained upon any portion of the Property. Unless the Owners agree otherwise, side and rear yard fences which separate adjacent Lots shall be owned and maintained by the Owner on whose Lot the fence is located, or if the location of the fence is indefinite, the fence shall be jointly maintained by the Owners of the Lots separated by the fence. No fence shall be erected upon any Lot which is located less than ten feet (10') from the front wall of the single family residence constructed upon said Lot.

4.10 **Landscaping.** Prior to the occupancy of the single-family residence constructed upon any Lot located upon the Property: (i) the area between the front of the residence and the street abutting the front Lot line and the area at least ten (10) feet from the sides of the residence (exclusive of those areas that are maintained in a natural condition with native vegetation) shall be fully sod with zoysia grass, or an alternative grass approved by the Committee; (ii) a minimum of sixteen (16) 5-gallon shrubs shall be installed in the front yard of each Lot; and (iii) if the front yard of the Lot does not contain a minimum of two (2) 311 caliper trees after the completion of the construction of the residence, driveway and other improvements on the Lot, 3" caliper trees shall be installed so that the front yard of such Lot contains a minimum of two (2) 311 caliper trees. Landscaping located upon any Lot, including temporary landscaping, shall be properly maintained at all times by the Owner on whose Lot the landscaping is located. The Architectural Committee shall be entitled to make recommendations with respect to tree disease control, whereupon the Owner or Owners to whom the recommendations are directed shall be obligated to comply with such recommendations. Decorative groundcover rock in the front and side yards of each Lot may not exceed ten (10) percent of the total area of the front and side yard of such Lot. The Board shall have the authority to amend any of the provisions of this Section to take into account turf or landscaping design that promotes water conservation and is compatible with existing aesthetic standards of the development. Any changes by Owners permitted under this section must receive the prior written approval of the Architectural Committee.

4.11 **Building Materials: Dwelling Size.** All single family residences constructed on the Lots shall be of recognized standard construction quality and exterior walls shall be constructed of at least seventy-five percent (75 %) masonry or other material specifically approved in writing by the Architectural Committee. For the purpose of calculating the total percentage of masonry required by this Section, (i) all gables shall be excluded from the total area of exterior walls; (ii) all windows and door openings shall be excluded from the total area of the exterior walls; and (iii) stone and masonry used on fireplaces and walls of an attached garage may be included in the computation as stone or masonry used. For each residence located on the Property, the minimum floor area of finished heated and air conditioned living space, exclusive

of porches (open or covered), decks, garages, and carports, shall be at least two thousand four hundred (2,400) square feet.

4.12 **Construction in Place.** All dwellings constructed on the Property shall be built in place on the Lot and the use of prefabricated materials shall be allowed only with the prior written approval of the Architectural Committee.

4.13 **New Materials.** Only new materials shall be utilized in the construction of any Improvement to be located upon a Lot, unless otherwise approved in writing by the Architectural Committee.

4.14 **Chimneys.** All fireplace flues and smoke stacks shall be completely enclosed and concealed from so as to not be visible from any adjacent Lot, street or other portion of the Property and finished chimneys shall be of materials architecturally compatible with the principal finish material of the exterior walls of the single-family residence located upon the Lot, unless otherwise approved in writing by the Architectural Committee.

4.15 **Alteration or Removal of Improvements.** Any construction, alteration, or addition, other than normal maintenance, which in any way alters the exterior appearance of any Improvement (including a change in paint color), or the removal of any Improvement, shall be performed only with the prior written approval of the Architectural Committee.

4.16 **Roofing Materials.** All roofing materials must receive written approval in advance from the Architectural Committee; provided, however, the following materials are specifically permitted: gray, "weathered wood," fiberglass composition, 25- year shingles and materials authorized by the Section 202.011 of The Texas Property Code, which includes shingles designed primarily for wind and hail resistance, heating and cooling efficiencies and solar-generating capabilities. Such shingles, when installed, must resemble shingles used or otherwise authorized for use on the Property.

4.17 **Solar Energy Devices.** All Solar-Energy Devices must receive written approval in advance from the Architectural Committee and must be located on the roof of the house or in a fenced yard or patio of the Owner. No roof-mounted device may extend higher than or beyond a roofline and must conform to the slope of the roof and have a top edge parallel to the roofline. The frame, support brackets, piping and wiring must be silver, bronze or black in tone. No yard or patio device must be taller than the fence line and must be screened so as not to be visible from any adjacent lot street or the other portion of the property.

4.18 **Driveways.** The Architectural Committee shall have the right to impose limitations on driveway design, including materials, aprons, location, and point of contact with dedicated roads, streets, or other driveways in the Subdivision. Driveways shall be constructed so that they have a sufficient rise in elevation to allow for the surface water drainage along the curb line of the street to continue without interruption or change in direction of flow.

4.19 **Garbage Containers.** The Architectural Committee shall have the right to require each Owner to specify a specific location for trash service and the placement of garbage containers for waste collection.

4.20 **Underground Utility Lines.** No utility lines, including but not limited to, wires or other devices for the communication or transmission of telephone or electric current or power, cable television, or other type of line or wire shall be erected, placed, or maintained anywhere in or upon any portion of the Property unless the same shall be contained in conduit or cables installed and maintained underground or concealed in, under, or on buildings or other Improvements as approved in writing by the Architectural Committee; provided, however, that no provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or other Improvements which have been previously approved in writing by the Architectural Committee. The installation method, including but not limited to, location, type of installation equipment, trenching method, and other aspects of installation, for both temporary and permanent utilities, shall be subject to review and approval by the Architectural Committee.

4.21 **Drainage.** There shall be no interference with the established drainage patterns over any of the Property, except by Declarant, unless adequate provision is made for proper drainage and approved by the Architectural Committee.

4.22 **Construction Activities.** This Declaration shall not be construed so as to interfere unreasonably with, or prevent normal construction activities during, the construction of Improvements by an Owner (including Declarant) upon any Lot within the Property. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area of the Property. In the event that construction upon any Lot does not conform to usual practices in the area as determined by the Architectural Committee in its sole good faith judgment, the Architectural Committee shall have the authority to seek an injunction to stop such construction. In addition, if during the course of construction upon any Lot there is excessive accumulation of debris of any kind which would render the Lot or any portion thereof unsanitary, unsightly, offensive, or detrimental to it or any other portion of the Property, then the Architectural Committee may contract for or cause such debris to be removed, and the Owner of the Lot shall be liable for all expenses incurred in connection therewith.

ARTICLE V

THE ASSOCIATION

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

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

with the title to the Lot.

5.3. **Voting Rights.** The right to cast votes, and the number of votes which may be cast, for election of members to the Board and on all other matters to be voted on by the Members shall be calculated as follows:

- (A) The Owner (including Declarant) of each Lot within the Property shall have one vote for each Lot owned.
- (B) In addition to the votes to which it is entitled by reason of Subparagraph of this Section, for everyone vote outstanding in favor of any other person or entity, Declarant shall have four (4) votes until the votes described in Subparagraph (A) of this Section which are owned by Persons other than Declarant total, in the aggregate, eighty percent (80 %) of the total number of votes. Thereafter, Declarant shall have only the votes, if any, to which it is entitled under said Subparagraph (A) of this Section.

5.4. **Powers and Authority of the Association.** The Association shall have the powers of a Texas nonprofit corporation, subject only to such limitations upon the exercise of such power as are expressly set forth in this Declaration. It shall further have the power to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration. Without in any way limiting the generality of the two preceding sentences, the Association and the Board, acting on behalf of the Association, or the Declarant for the purpose of exercising the remedies set forth in Section 5.4(F) below as necessary to enforce the Restrictions shall have the power and authority at all times as follows:

- (A) **Board of Directors.** The Association shall appoint a Board of Directors, which will manage and control the affairs of the Association. The Board will consist of a President, Vice-President, Secretary, Treasurer and Chairman of the Architectural Committee. The members of the Board will be elected at the Annual General Meeting and will serve for one year. All elected members are eligible for re-election at the end of their term. The Board may fill vacancies that arise during the year, such appointments to be in effect until the next Annual General Meeting.
- (B) **Rules and Bylaws.** To make; to establish and promulgate; and, in its discretion, to amend or repeal and re-enact the Association Rules and Bylaws. The content of the Association Rules and Association Bylaws may be established by the Board, provided the same are not in conflict with this Declaration.
- (C) **Insurance.** To obtain and maintain in effect policies of insurance which, in the opinion of the Board, are reasonably necessary or appropriate to carry out the Association functions.
- (D) **Records.** To keep books and records of the Association's affairs.
- (E) **Assessments.** To levy assessments as provided in Article VII below. An assessment is defined as that sum which must be levied in the manner and against

the property set forth in Article VII hereof in order to raise the total amount for which the levy in question is being made.

- (F) **Right of Entry and Enforcement.** To enter at any time in an emergency or in a non-emergency, after twenty-four (24) hours' written notice, without being liable to any Owner, upon any Lot and into any Improvement thereon, for the purpose of enforcing the Restrictions or for the purpose of maintaining or repairing any area, Improvement, or other facility to conform to the Restrictions, and the expense incurred by the Association or Declarant in connection with the entry upon any Lot and the maintenance and repair work conducted thereon shall be a personal obligation of the Owner of the Lot entered upon, shall be a lien upon the Lot entered upon and the Improvements thereon, and shall be enforced in the same manner and to the same extent as provided in Article VII hereof for regular and special assessments. The Association or Declarant shall have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of the Restrictions. The Association or Declarant is also authorized to settle claims, enforce liens, and take all such action as it may deem necessary or expedient to enforce the Restrictions; provided, however, that the Board shall never be authorized to expend any Association funds for the purpose of bringing suit against Declarant, its successors, or assigns.
- (G) **Legal and Accounting Services.** To retain and pay for legal and accounting services necessary or proper in the operation of the Association.
- (H) **Manager.** To retain and pay for the services of a person or a firm (the "Manager") to manage and operate the Association, including its property, to the extent deemed advisable by the Board. Additional personnel may be employed directly by the Association or may be furnished by the Manager. To the extent permitted by law, the Association and the Board may delegate any other duties, powers and functions to the Manager. The members of the Association hereby release the Association and the members of the Board from liability for any omission or improper exercise by the Manager of any such duty, power, or function so delegated.
- (I) **Meetings and Quorums.** To hold Annual General Meetings on a date as may be designated by written notice or electronic communication by the Board to the members not less than fourteen (14) days prior to the date fixed for said meeting. To call Special Meetings for any purpose by written notice or electronic communication to the Members not less than fourteen (14) days prior to the date fixed for said meeting. A Quorum for an Annual Meeting will be fifty percent (50%) of the Members, present or represented by Proxy. A simple majority of voting rights present or by Proxy shall decide any question brought before the meeting. A Quorum for a Special Meeting shall be sixty-seven percent (67%) of the Members, present or represented by Proxy. Unless otherwise specified in the

Declaration, a majority of fifty-one percent (51%) of the Members present or represented by Proxy shall decide any question brought before the meeting.

- (J) **License Agreements.** To enter into such license agreements, contracts or other agreements with the governmental authorities having jurisdiction over the streets, rights-of-way and public easements within the Subdivision and/or to make such other arrangements as deemed appropriate by the Board for the installation, maintenance, repair, replacement, upgrade and removal of entryway improvements, signs, lighting, landscaping and other similar improvements within the medians or right-of-way of any streets or other property that has been dedicated to the public or that are covered by public easements within the Subdivision in order to enhance the value of the Lots and the Property.

5.5. **Common Area and Facilities.** Subject to and in accordance with this Declaration, the Association, acting through the Board, shall have the following duties:

- (A) To accept, own, operate and maintain all Common Area and Facilities which may be conveyed or leased to it by. Declarant, together with all Improvements of whatever kind and for whatever purpose which may be located in said areas; and to accept, own, operate and maintain all other property, real or personal, conveyed or leased to the Association by Declarant and to maintain in good repair and condition all lands, improvements and other Association property owned by or leased to the Association. Such maintenance shall include, but not be limited to, mowing and removal of rubbish or debris of any kind.
- (B) To pay all real and personal property taxes and other taxes and Assessments levied upon or with respect to Common Area and Facilities or any other property owned by or leased to the Association to the extent that such taxes and Assessments are not levied directly upon the Members of the Association. The Association shall have all rights granted by law to contest the legality of the amount of such taxes and Assessments.
- (C) To take out and maintain current a policy of liability insurance coverage to cover accidental bodily injury and/or death caused by the use and enjoyment of the Common Area and Facilities. Such insurance shall be in an amount as the Board shall deem appropriate.

5.6. **Obligations under License Agreements.** The Association shall take and perform all obligations and actions required or permitted pursuant to the terms and provisions of any license agreement entered into by the Association, and to levy and collect assessments for the costs and expenses therefor, with respect to the repair, replacement, upgrade and removal of entryway improvements, signs, lighting, landscaping and other similar improvements within the medians or right-of-way of any streets or other property that has been dedicated to the public or that are covered by public easements within the Subdivision. In addition, the Association shall be authorized to landscape, maintain, and repair easements, access easements, rights-of-way, median strips, sidewalks, paths, trails, detention ponds, water quality ponds, lakes, and other areas of the Property, as appropriate.

5.7. **Indemnity.** The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was a director, officer, committee member, employee, servant or agent of the Association, the Architectural Committee, or the Board, against all claims and expenses including attorney's fees reasonably incurred by such person in connection with such action, suit or proceeding, if it is found and determined by the Board or a Court that such person (i) acted in good faith and in a manner such n reasonably believed to be in, or not opposed to, the best interests of the Association, or (ii) with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that such person did not act in good faith or in a manner which such person 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 such person's conduct was unlawful. The Board may purchase and maintain insurance on behalf of any person who is or was a director, officer, committee member, employee, servant or agent of the Association, the Architectural Committee, or the Board, against any liability asserted against such person or incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Association would have the power to indemnify him against such liability hereunder or otherwise.

ARTICLE VI

ARCHITECTURAL COMMITTEE

6.1. **Membership of Architectural Committee.** The Architectural Committee shall consist of not more than three (3) voting members ("Voting Members"), and such additional nonvoting members serving in an advisory capacity ("Advisory Members") as the Voting Members deem appropriate. The following persons are hereby designated as the initial Voting Members of the Architectural Committee: Kevin Brown, Diane Morrison, and Robert D. McCain.

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

6.3. **Advisory Members.** The Voting Members may from time to time designate Advisory Members.

6.4. **Term.** Each Voting Member of the Architectural Committee shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein. In the event of death or resignation of any Voting Member, the remaining Voting Member or Voting Members shall have full authority to act until a replacement Voting Member or Voting Members have been designated.

6.5. **Declarant's Rights of Appointment.** Declarant, its successors or assigns shall have the right to appoint and remove all Voting Members of the Architectural Committee until such time as Declarant no longer holds legal title to any portion of the Property whereupon the

right to appoint or remove all voting members of the Architectural Committee shall automatically vest in the Board. Thereafter, the Board shall have the right to appoint and remove all Voting Members of the Architectural Committee.

6.6. **Adoption of Rules.** The Architectural Committee may adopt such procedural and substantive rules, not in conflict with this Declaration, as it may deem necessary or proper for the performance of its duties, including but not limited to, a building code, a fire code, a housing code, and other similar codes as it may deem necessary and desirable.

6.7. **Review of Proposed Construction.** Whenever in this Declaration the approval of the Architectural Committee is required, it shall have the right to consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts which, in its sole discretion, are relevant. Except as otherwise specifically provided herein, prior to the commencement of any construction of any Improvement on the Property or any portion thereof, the Plans and Specifications therefor shall be submitted to the Architectural Committee, and construction thereof may not commence unless and until the Architectural Committee has approved such Plans and Specifications in writing. The Architectural Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration, and perform such other duties assigned to it by this Declaration or as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with Plans and Specifications approved by the Architectural Committee. The Architectural Committee may review Plans and Specifications submitted for its review and such other information as it deems proper. Until receipt by the Architectural Committee of any information or documents deemed necessary by the Architectural Committee, it may postpone review of any Plans and Specifications submitted for approval. No Improvement shall be allowed on any Lot which is of such size or architectural design or involves the use of such landscaping, color schemes, exterior finishes, and materials and similar features as to be incompatible with development within the Property and the surrounding area. The Architectural Committee shall have the authority to disapprove any proposed Improvement based upon the restrictions set forth in the preceding sentence and the decision of the Architectural Committee shall be final and binding so long as it is made in good faith. The Architectural Committee shall not be responsible for reviewing any proposed Improvement, nor shall its approval of any Plans or Specifications be deemed approval thereof from the standpoint of structural safety, engineering soundness, or conformance with building or other codes.

6.8. **Actions of the Architectural Committee.** The Architectural Committee may by written resolution, unanimously adopted in writing, designate one or two of its members or any agent acting on its behalf to take any action or perform any duties for and on behalf of the Architectural Committee. In the absence of such designation, the vote of the majority of all of the members of the Architectural Committee taken without a meeting, documented in accordance with Article 1396-9.10A of the Texas Non-Profit Corporation Act, shall constitute an act of the Architectural Committee. Notwithstanding anything to the contrary in the event the Architectural Committee fails to respond to a request for approval of Plans and Specifications within thirty (30) days of receipt of all required information, the Architectural Committee shall be deemed to have approved such Plans and Specifications.

6.9. **No Waiver of Future Approvals.** The approval or consent of the Architectural

Committee to any Plans or Specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the Architectural Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans and Specifications, or other matter whatever, subsequently or additionally submitted for approval or consent by the same or a different person.

6.10. **Variances.** The Architectural Committee may grant variances from compliance with any of the provisions of Article ID and Article IV (other than the use restrictions contained in Sections 3.2, 3.3, 3.4, 3.6, 4.2 and 4.3) of this Declaration, when, in the opinion of the Architectural Committee, in its sole and absolute discretion, such variance will not impair or detract from the quality of the development of the Property, and such variance is justified due to unusual or aesthetic considerations or unusual circumstances. All variances must be evidenced by a written instrument, in recordable form, and must be signed by at least two (2) of the voting members of the Architectural Committee. The granting of such variance shall not operate to waive or amend any of the terms and provisions of these covenants and restrictions applicable to the Lots for any purpose except as to the particular property and in a particular instance covered by the variance, and such variance shall not be considered to establish a precedent or future waiver, modification or amendment of the terms and provisions hereof.

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

6.12. **Nonliability.** Neither the Architectural Committee nor any member thereof, nor the Board, nor any member thereof, shall be liable to the Association or to any Owner or to any other person or entity for any loss, damage or injury arising out of or in any way connected with the performance of the Architectural Committee's or the Board's respective duties under this Declaration, unless due to the willful misconduct or bad faith of such person. Neither the Architectural Committee nor any member thereof shall be liable to any Owner due to the construction of any Improvement within the Subdivision.

6.13. **Work in Progress.** The Architectural Committee, at its option, may inspect all work in progress to ensure compliance with approved Plans and Specifications.

6.14. **Address.** Plans and Specifications shall be submitted to the Architectural Committee to such other address as may be designated from time to time.

6.15. **Fees.** The Architectural Committee shall have the right to require a reasonable submission fee for each set of Plans and Specifications submitted for its review.

6.16. **Certificate of Compliance.** Upon completion of any Improvement approved by the Architectural Committee and upon written request by the Owner of the Lot, the Architectural

Committee may issue a Certificate of Compliance in a form suitable for recordation. The Certificate may identify the Lot and the Improvements, the use or uses to be conducted thereon, and the Plans and Specifications on file with the Architectural Committee pursuant to which the Improvements were made and shall specify that the Improvements comply with the approved Plans and Specifications. The Certificate shall not be construed to certify the acceptability, sufficiency, or approval by the Architectural Committee of the actual construction of the Improvements or the workmanship or materials thereof. The Owner is hereby notified that the Certificate in no way warrants, except as set forth above, the sufficiency, acceptability, or approval by the Architectural Committee of the construction, workmanship, materials, or equipment of the Improvements. Preparation and recordation of such a Certificate shall be at the expense of the Owner of the improved Lot.

ARTICLE VII

FUNDS AND ASSESSMENTS

7.1. Assessments.

- (A) The Association may from time to time levy Assessments against each Lot whether or not improved. The level of Assessments shall be equal and uniform between all Lots, except that no Assessments hereunder shall be levied against Declarant.
- (B) Where the obligation to pay an Assessment first arises after the commencement of the year or other period for which the Assessment was levied, the Assessment shall be prorated as of the date when said obligation first arose in proportion to the amount of the Assessment year or other period remaining after said date.
- (C) Each unpaid Assessment and late charges, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be the personal obligation of the Owner of the Lot against which the Assessment fell due, and shall become a vendor's lien against each such Lot and all Improvements thereon. The Association may enforce payment of such Assessments in accordance with the provisions of this Article.

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

7.3. Regular Annual Assessments. Prior to the beginning of each fiscal year, the Board shall estimate the expenses to be incurred by the Association during such year in performing its functions under this Declaration, including but not limited to the cost of all maintenance of Common Areas and facilities, the costs and expenses incurred in connection with any license agreement entered into pursuant to Section 5.4(n), the costs and expenses of administering the Association and performing its duties under this Declaration, insurance premiums, accounting, legal and other professional fees, the costs, fees and charges of any

Manager, the cost of enforcing the Restrictions, and a reasonable provision for contingencies and appropriate replacement-reserves, less any expected income and any surplus from the prior year's fund. Assessments sufficient to pay such estimated net expenses shall then be levied as herein provided, and the level of Assessments set by the Board shall be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any individual Assessment, the Association may at any time and from time to time levy further Assessments in the same manner as aforesaid. All such regular Assessments shall be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion.

7.4. **Special Assessments.** In addition to the regular annual assessment provided for above, the Board may call a Special Meeting to consider in any assessment year a Special Assessment, applicable to that year only, to cover the cost of unexpected repairs, maintenance construction or reconstruction of common elements or for such action as the Board may consider is in the best interests of the Association. Quorum and voting rights as set out in Section 5.4(1) will decide the resolution presented to the meeting.

7.5. **Late Charges.** If any Assessment is not paid before it is delinquent, the Owner responsible for the payment thereof may be required by the Board to pay a late charge at such rate the Board may designate from time to time, and such late charge (and any reasonable handling costs) shall be a charge upon the Lots owned by the said Owner to which the Assessment relates, collectible in the same manner as herein provided for collection of Assessments, including foreclosure of the lien against such Lot(s); provided, however, such charge shall never exceed the maximum charge permitted under applicable law.

7.6. **Owner's Personal Obligation for Payment of Assessments.** The regular and Special Assessments provided for herein shall be the personal and individual debt of the Owner of the Lot covered by such Assessments. No Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any such Assessment, the Owner of the Lot shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from the due date thereof (or if there is no such highest rate, then at the rate of two percent (2%) per month), together with all costs and expenses of collection, including reasonable attorneys' fees.

7.7. **Assessment Lien and Foreclosure.**

(a) The Association shall adopt reasonable guidelines to establish an alternative payment schedule by which an owner may make partial payments to the Association for delinquent Regular or Special Assessments or any other amount owed to the Association without incurring monetary penalties other than reasonable costs of administering the payment plan or interest. The minimum term for a payment plan is three months and a maximum term is eighteen months from the date of the Owner's request for a payment plan. The Association may retain a collection agency to recover delinquencies due to the Association. The Association will notify the owner by Certified Mail, Return Receipt Requested, specifying the amount and outlining options for payment and giving the owner thirty (30) days to cure the delinquency. All sums assessed in the manner provided in this Article but unpaid shall, together with interest as

provided in Section 7.6 hereof and the cost of collection, including attorneys' fees as herein provided, thereupon become a continuing lien and charge on the Lot covered by such Assessment, which shall bind such Lot in the hands of the Owner, and such Owner's heirs, devisees, personal representatives, successors or assigns. The obligation to pay assessments hereunder is part of the purchase price of each Lot when sold to an Owner, and an express vendor's lien is hereby retained to secure the payment of the assessments or charged hereby levied, and is hereby transferred and assigned to the Association, which lien shall be enforceable through appropriate judicial and nonjudicial proceedings by the Association. Additionally, a lien with a power of sale is hereby granted and conveyed to the Association to secure the payment of such assessments. The aforesaid lien shall be superior to all other liens and charges against the said Lot, except only for tax liens, all sums unpaid on a first Mortgage lien of record, or sums borrowed for the improvement of the Lot in question. The Association shall have the power to subordinate the aforesaid Assessment lien to any other lien. Such power shall be entirely discretionary with the Board and such subordination must be signed by a duly authorized officer of the Association. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish that lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall release such Lot from liability from any assessments thereafter becoming due or from the lien thereof.

(b) To evidence the aforesaid Assessment lien, the Association may prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien and a description of the Lot. Such notice shall be signed by one of the officers of the Association and shall be recorded in the office of the County Clerk of Travis County, Texas. Such lien for payment of Assessments shall attach with the priority above set forth from the date that such payment becomes delinquent and may be enforced by the foreclosure on the defaulting Owner's Lot by the Association in like manner as a mortgage on real property subsequent to the recording of a notice of Assessment lien as provided above, or the Association may institute suit against the Owner personally obligated to pay the Assessment and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or not judicial, the Owner shall be required to pay the costs, expenses, and reasonable attorneys' fees incurred. The Association shall have the power to bid on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey, or otherwise deal with the same.

(c) Upon the written request of any Mortgagee, the Association shall report to said Mortgagee any unpaid Assessments remaining unpaid for longer than thirty (30) days after the same are due.

(d) Prior to foreclosure, the Association will give written notice of the total amount of the delinquency to any holder of a lien on record on the property where lien is inferior or subordinate to the Association and is evidenced by a deed of trust. The Association will provide the recipient of the notice an opportunity to pay the delinquent lien within sixty-one (61) days of receipt of the notice. Prior to foreclosure proceedings the Association will seek a court order in accordance with the provisions of section 209.0092 of the Texas Property Code. 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 maybe 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 Records of Travis County, Texas. In the event that the Association has determined to non-judicially 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 Records of Travis County, Texas. Out of the proceeds of such sale, there shall first be paid any delinquent assessment and current assessment due to the Association; second, from such proceeds there shall be paid attorneys' fees and third-party collection costs incurred in providing the basis for foreclosure; third, from such proceeds there shall be paid any other amount owed to the Association; fourth, from such proceeds there shall be paid any amounts required by law to be paid before payment to the Owner; and fifth, the remaining balance shall be paid to the Owner. Following any such 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 of restitution thereunder.

(e) 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 and Facilities, if any (other than the private streets), in such manner as the Association deems fit or appropriate.

(f) No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area and Facilities 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.

(g) Each Owner further, by acceptance of a deed to a Lot, hereby expressly vests in the Association or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce such lien by all methods available for the enforcement of such liens, including non-judicial foreclosure pursuant to applicable law, and each Owner hereby grants to the Association a power of sale in connection with such lien.

7.8. **Exemptions.** Notwithstanding any provision herein to the contrary, all private streets and other Common Area and Facilities shall be exempt from the payment of any Assessment levied by the Association, regular or special, and no Assessment, regular or special, shall be levied against any Lots owned by Declarant without the prior consent of Declarant.

ARTICLE VIII

EASEMENTS

8.1. **Reserved Easements.** All dedications, limitations, restrictions, and reservations shown on the Plat and all grants and dedications of easements, rights-of-way, restrictions, and related rights, made prior to the Property becoming subject to this Declaration are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set forth herein and shall be construed as being adopted in each and every contract, deed, or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Property. Declarant reserves the right to make changes in and additions to the said easements and rights-of-way for the purpose of most efficiently and economically developing the Property. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other Person, to grant, dedicate, reserve or otherwise create, at any time or from time to time, rights-of-way and easements for public utility purposes (including without limitation, gas, water, electricity, telephone and drainage) in favor of any Person along any front, rear, or side boundary line of any Lot, which said easements shall have a maximum width of 7.5 feet.

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

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

8.4. **Surface Areas.** The surface of easement areas for underground utility services shall be maintained by the Owner of the Lot which such easement overlays and such Owner may

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

ARTICLE IX

MISCELLANEOUS

9.1. **Term.** This Declaration, including all of the covenants, conditions, and restrictions hereof, shall run until December 31, 2024, unless amended as herein provided. After December 31, 2024, this Declaration, including all such covenants, conditions, and restrictions shall be automatically extended for successive periods of ten(10) years each, unless amended or extinguished by a written instrument executed by the Owners of at least sixty-seven percent (67%) of the Lots within the Property then subject to this Declaration.

9.2. **Amendment.**

- (A) **By Declarant.** This Declaration may be amended by the Declarant so long as Declarant holds a majority of the votes of the Association. No amendment by Declarant shall be effective until there has been recorded in the Real Property Records of Travis County, Texas, an instrument executed and acknowledged by Declarant, and executed and acknowledged, which sets forth the amendment Without limiting the generality of the foregoing, Declarant shall have and reserves the right at any time and from time to time, without the joinder or consent of any other party, to amend this Declaration by any instrument in writing duly signed, acknowledged and filed for record 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 order of the Federal Housing Administration, the Veterans Administration, 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 and shall not impair or affect the vested property or other rights of any Owner or his mortgagee.
- (B) **By Owners.** In addition to the method in Section 9.2 (A) above, this Declaration may be amended by the recording in the Travis County Real Property Records of an instrument executed and acknowledged by the President and Secretary of the Association, setting forth the amendment and certifying that such amendment has been approved by the Owners of at least sixty seven per cent (67%) of the Lots.

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

than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person to the Association if created 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 of created.

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

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

9.6. **Assignment of Declarant.** Notwithstanding any provision in this Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights, and duties under this Declaration to any other Person and may permit the participation, in whole or in part, by any other Person in any of its privileges, exemptions, rights, and duties hereunder, which assignment shall be effective only if in writing and recorded in the Real Property Records of Travis County, Texas.

9.7. **Enforcement and Nonwaiver.** Except as otherwise provided herein, any Owner at his own expense, Declarant and/or the Board shall have the right to enforce all of the provisions of the Restrictions. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any such provision. The failure to enforce any provision of the Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of said Restrictions. The Association shall have the right, when appropriate in its judgment, to claim or impose a lien upon any Lot or Improvement constructed thereon in order to enforce any right or effect compliance with this Declaration.

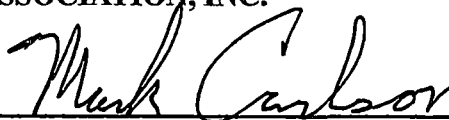
9.8. **Construction.** The provisions of the Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise effect that which is set forth in any of the paragraphs, sections or articles hereof.

9.9. **Disclaimer of Warranty.** DECLARANT MAKES NO WARRANTY, EXPRESS OR IMPLIED, REGARDING THE SUBDIVISION, OR THE DEVELOPMENT OR ANY IMPROVEMENT TO OR IMPROVEMENTS WITHIN THE SUBDIVISION OR ON THE

LOTS, THE CONDITION OF THE SUBDIVISION OR THE LOTS, THE SUFFICIENCY OF UTILITIES, THE WORKMANSHIP, DESIGN OR MATERIALS USED IN EVERY IMPROVEMENT, INCLUDING WITHOUT LIMITATION COMMON AREAS, PUBLIC EASEMENTS AND RIGHTS OF-WAY, AND INCLUDING WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY, LIABILITY, FITNESS, OR SUITABILITY FOR ANY PARTICULAR PURPOSE OR USE OR ANY WARRANTY OF QUALITY. WHILE DECLARANT HAS NO REASON TO BELIEVE THAT ANY OF THE COVENANTS, TERMS OR PROVISIONS OF THIS DECLARATION ARE OR MAY BE INVALID OR UNENFORCEABLE FOR ANY REASON OR TO ANY EXTENT, DECLARANT MAKES NOW WARRANTY OR REPRESENTATION AS TO THE PRESENT OR FUTURE VALIDITY OR ENFORCEABILITY OF ANY SUCH COVENANT, TERM OR PROVISION. ANY OWNER ACQUIRING A LOT IN RELIANCE ON ONE OR MORE OF SUCH COVENANTS, TERMS OR PROVISIONS SHALL ASSUME ALL RISKS OF THE VALIDITY AND ENFORCEABILITY THEREOF, AND BY ACQUIRING SUCH LOT AGREES TO HOLD DECLARANT HARMLESS THEREFROM.

CERTIFICATION OF THE ASSOCIATION'S PRESIDENT & SECRETARY

The undersigned President and Secretary of Hill Country II-B Homeowners Association, Inc. (the "Association") hereby certify that this Amended and Restated Declaration of Covenants, Conditions and Restrictions Hill Country, Phase II-B was approved by property owners in the Association representing at least sixty-seven percent (67%) of the total votes allocated to property owners at a meeting conducted on the 25 day of February 2024

HILL COUNTRY II-B HOMEOWNERS ASSOCIATION, INC.


[insert name], President

Mark Carlson

STATE OF TEXAS §

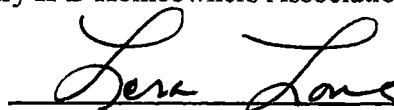
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COUNTY OF TRAVIS §

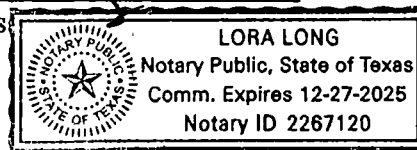
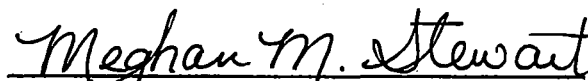
THIS INSTRUMENT was acknowledged before me this 26 day of June, 2024 by [insert name], President of Hill Country II-B Homeowners Association, Inc.



Mark Carlson



Notary Public of Texas

[insert name], Secretary

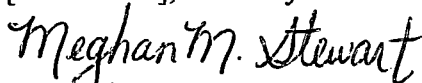
Meghan M. Stewart

STATE OF TEXAS §

§

COUNTY OF TRAVIS §

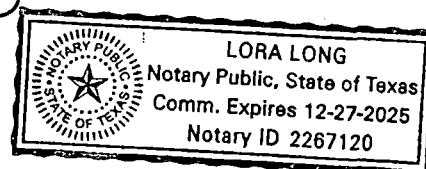
THIS INSTRUMENT was acknowledged before me this 26 day of June, 2024 by [insert name], Secretary of Hill Country II-B Homeowners Association, Inc.



Meghan M. Stewart



Notary Public of Texas



RETURN

MARK CARLSON
6510 CONIFER COVE
AUSTIN, TX 78736



FILED AND RECORDED
OFFICIAL PUBLIC RECORDS

Dyana Limon-Mercado

Dyana Limon-Mercado, County Clerk
Travis County, Texas

2024142601

Dec 27, 2024 03:19 PM

Fee: \$141.00

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