

TITLE PAGE

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in Volume 404, pages 647-666, Official Public Records.

DEBBIE WAHL, Clerk County Court, Gillespie County, Texas.

Filed by Colleen Ketron Deputy.
Colleen Ketron

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DEDICATION AND RESTRICTIONS

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ATTEST: MAY 17 2006

STATE OF TEXAS §
COUNTY OF GILLESPIE §



MARY LYNN RUSCHE, County Clerk
Gillespie County, Texas

SECTION 1. RECITALS

[Signature] Deputy

WHEREAS, HILLS OF SEVEN FALLS, LLC, is the owner of all tracts and property situated in Seven Falls Ranch, located in Gillespie County, Texas as described on a plat or subdivision map recorded in Volume 2, Page 197-200 of the Plat Records of Gillespie County, Texas; and

WHEREAS, HILLS OF SEVEN FALLS, LLC, will convey the above described lands subject to certain protective covenants, reservations, conditions, restrictions and charges as hereinafter set forth ("Restrictive Covenants") and

WHEREAS, certain portions of the Property are subject to certain restrictions ("Prior Restrictions") set forth in the Declaration dated December 1, 1998, and recorded in Volume 359, Page 985, Real Property Records, Gillespie County, Texas.

NOW, THEREFORE, it is hereby declared that all of the Property (as herein defined) shall be held, sold, occupied, transferred and conveyed subject to the following restrictions, covenants, and conditions that are for the purpose of protecting the value and desirability of the above referred to land and that shall run with the land above described and, shall be binding on all parties having a right, title, or interest in or to the above described lands or any part thereof and their heirs, successors, and assigns, and which restrictions, covenants, and conditions shall inure to the benefit of each owner thereof and any contract or deed that may hereafter be executed in connection with said lands or any part thereof shall, be conclusively held to have been executed delivered and accepted subject to the terms and conditions contained in this instrument, regardless whether such terms and conditions are specifically set out in said contract or deed.

SECTION 2. DEFINITIONS

ARCHITECTURAL COMMITTEE. *Architectural Committee* shall mean and refer to an architectural committee of the Homeowners Association, as herein defined, that shall consist of three individuals appointed by the Developer and subject to change by the Developer, the initial Architectural Committee shall consist of Deane C. Watson, Jr., Oscar Durham, and Ed Simon each of whom shall serve at the pleasure of the Developer until 65 % of the Tracts are sold. The Architectural Committee by unanimous vote may designate the Developer's Executive Manager to act for the Committee. After 65% of the Tracts are sold and conveyed by the Developer, the Architectural Committee shall mean and refer to a committee of five Tract Owners elected by and serving at the pleasure of a majority of the Tract Owners for such terms and upon such conditions not inconsistent with these Restrictive Covenants as the majority of

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such Tract Owners shall determine and in accordance with the Bylaws of the Homeowners Association.

COMMON AREAS. *Common Areas* shall mean all real property (including the improvements thereto) designated on the Plat(s) of the Property or by the Developer for the common use and enjoyment of the Owners, whether in existence at the time of the execution of this Declaration, or which may be added at any time in the future, including but not limited to the Common Areas shown in the subdivision plat or map recorded in Volume 2, Page 197-200 of the Plat Records of Gillespie County, Texas, as amended from time to time. By way of illustration, Common Areas may include, but not necessarily be limited to, the following: signs, street medians, recreation areas, landscaping, lighting, entrance signs, walls, bridges, trails, green belts, mail boxes, and other similar or appurtenant improvements.

DEVELOPER. *Developer* as used in these Restrictive Covenants shall refer to HILLS OF SEVEN FALLS, LLC, its heirs, successors, or assigns.

HOMEOWNERS ASSOCIATION. *Homeowners Association* shall mean and refer to an incorporated association consisting of all Owners, which shall have the duties hereinafter set forth. Each Owner of a Tract shall become a member of the Association contemporaneously with acquiring a Tract, without any further documentation of any kind. The Owners shall be members of the Homeowners Association. Each Owner of a Tract including Developer, shall automatically be a member of the Association. Association membership shall be appurtenant to ownership of a Tract. Association membership shall only be transferred upon the conveyance of a Tract in fee by an Owner and membership shall not be assigned, pledged, or transferred in any other way. Any attempt to make a transfer prohibited hereby shall be void. The Association may be incorporated as a nonprofit corporation. The Association shall be managed by the Board pursuant to the procedures set forth in the Association's Articles of Incorporation and Bylaws, subject to the provisions of these Restrictive Covenants. Each Owner shall have one vote for all of the land owned by such Owner, e.g., if an Owner owns several Tracts such Owner shall have only one vote except that Developer shall have two (2) votes for each Tract owned by the Developer as provided in the Articles and Bylaws of the Association. All owners of undivided interests in any Tract shall be considered as a single Owner for the purposes of exercising voting rights hereunder with the designated "voter" being authorized in writing by a majority of such Owners. Meetings shall be as set forth in the Bylaws of the Homeowners Association. Notwithstanding any contrary provision contained herein, until such Bylaws are enacted or the Developer has conveyed to third parties 65% of the acreage or platted lots, whichever shall last occur, Developer shall appoint the Directors and Directors need not be members of the Association. The Association shall have the powers and duties specified in the Articles and Bylaws of the Homeowners Association.

OWNER. *Owner or Owners* shall, mean a person or persons, entity or entities, including Developer, holding a fee simple interest in any portion of the property. Owner shall not include any lienholder, secured party, mortgagee, lessee, invitee or guest, but even though an Owner may lease a Tract or permit invitees or guests, and may delegate to each tenant, invitee or guest, the right and easement of use and enjoyment in and to the Common Areas, such parties and such use and enjoyment by such parties shall be subject to, and as provided in, the provisions of these Restrictive Covenants, and any lease or agreement shall provide that the terms thereof shall be subject in all respects to the provisions of these Restrictive Covenants and any failure by the lessee, invitee or guest to comply with the terms and provisions of these Restrictive Covenants shall be and constitute a default under such lease or agreement and shall

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ATTEST:
MARY LYNN RUSCHE, County Clerk
Gillespie County, Texas
Mary Lynn Rusche Deputy



be in violation of these Restrictive Covenants with the same consequences as if such Owner delegating such right and easement had violated the same.

PERSON. *Person or Persons* shall mean any individual, individuals, entity or entities having the legal right to hold title to real property.

PROPERTY. *Property* shall mean and refer to that certain real property hereinbefore described as the subdivision, and more particularly described as Seven Falls Ranch, according to the plat of said subdivision as referenced herein and recorded in the Plat Records of Gillespie County, Texas and any additional real property owned by Developer as long as such additional real property is:

- (i) contiguous or adjacent to the real property herein described or to any real property contiguous or adjacent to such additional real property; and
- (ii) to be subdivided by Developer, its successor or assigns, pursuant to a plat filed of record in Gillespie County, Texas, indicating that such additional property will constitute an addition to SEVEN FALLS RANCH; and
- (iii) to be developed by Developer in a manner consistent with the concept contemplated by these Restrictive Covenants.

Such additional real property may become subject to these Restrictive Covenants by Developer who may, without the consent of any Owner, which consent is expressly waived by each Owner, at any time and from time to time, add to SEVEN FALLS RANCH and to the concept hereof any such property which is presently owns or which it may hereafter own, by filing of record a supplement to these Restrictive Covenants, which shall extend the concept of these covenants, conditions and restrictions of these Restrictive Covenants to such additional real property; provided, however, that such supplement may contain such complementary additions and modifications of the different character, if any, of the added properties and as are not inconsistent with the concept of these Restrictive Covenants. In no event, however, shall such supplement modify or add to the covenants established by the Restrictive Covenants. Developer may make any such addition even though at the time such addition is made, Developer is not the owner of any portion of the property described herein. Each supplement may designate the number of separate parcels or tracts comprising the properties added or such designation may be deferred to further and subsequent supplements as herein provided. Each such separate parcel or tract shall constitute a Tract within the meaning of these Restrictive Covenants.

TRACT. *Tract or Tracts* shall mean and be defined as a Lot specified and shown in any plat and replat of the Property and shall include any improvements from time to time constructed, erected, placed, installed, or located thereon.

SECTION 3. DEDICATION OF STREETS

The Developer hereby reaffirms the dedication to the public forever, for its use, the public roads as shown on the plat or replat of the Property.

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MARY LYNN RUSCHE, County Clerk
Gillespie County, Texas

By  Deputy



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Gillespie County, Texas



SECTION 4. COMMON AREAS

By [Signature] Deputy

The undersigned hereby dedicates for the common use and enjoyment of the Owners the Common Areas and subject to the provisions of these Restrictive Covenants, every Owner and every tenant of every Owner who resides on a Tract, and each individual who resides with either of them or who is a guest of either of them, respectively, on such Tract shall have a right and easement of use and enjoyment in and to the Common Areas and such easement shall be appurtenant to and shall pass with the title to every Tract; PROVIDED, HOWEVER, such easement shall not give such person the right to make alternations, additions or improvements to the Common Areas. The Developer shall convey the fee simple title to the Common Areas to the Homeowners Association, free and clear of all encumbrances and liens other than the lien of current taxes and assessments not in default and utility easements and mineral interests outstanding and of record, prior to January 1, 2002. The rights and easements of enjoyment created hereby shall be subject to the right of the Association to suspend membership rights for any period during which any assessment against a Tract remains unpaid.

SECTION 5. RESTRICTIVE COVENANTS

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1. *Limitation on Use.*

All Tracts shall be used solely for residential and agricultural purposes, including wildlife management as defined by the Texas Tax Code and other applicable statutes subject to the limitations and provisions of these Restrictive Covenants; including as herein provided gastehaus and Bed and Breakfast. The residential use of Tracts shall be limited to single family residential use except as otherwise expressly provided herein. Home occupations as defined herein are permissible uses. Only one permanent residence will be permitted on any one Tract. Additional buildings, hereinafter referred to as a *gastehaus*, shall be permitted. No Tract shall be used for any commercial or industrial purpose except for (a) permanent agricultural crops including vineyards, fruit trees, pecan groves and permanent grass (hay meadows or grazing pastures) and (b) a cottage industry by an artisan such as an artist, photographer, wood, metal or glass sculptor.

2. *Building Restrictions/Maintenance.*

A. *No Construction without Architectural Committee Approval.* No construction of any improvement within the Property may be commenced or substantially altered without the prior submission of written building plans to and the written approval of the Architectural Committee which approval shall include the approval of the size, square footage and location of all buildings and structures including without limitations the location of any gastehaus, Bed and Breakfast and agricultural barns, buildings and improvements. To obtain approval to do any of the work described herein an Owner must submit an application to the Architectural Committee showing the plans and specifications for the proposed work, which plans and specifications shall detail the nature, shape, height, materials, colors and location of the proposed work. The Architectural Committee shall review applications for proposed work in order to (i) ensure conformity of the proposal with these covenants, conditions and restrictions, and (ii) ensure harmony of external design in relation to surrounding structures and topography. An application

can be rejected for providing insufficient information. The Architectural Committee shall have broad, discretionary authority to interpret and apply these standards. In rejecting an application, the Architectural Committee should detail the reasons for rejection and suggest how the applicant could remedy the deficiencies. The members of the Architectural Committee shall not be entitled to compensation for nor liable for damages, claims or causes of action arising out of, services performed pursuant hereto. Any two members of the Architectural Committee may approve or disapprove any matter before the Architectural Committee. The Architectural Committee may for good cause shown approve variances as to any covenant, condition or restriction but such variance shall require approval of a majority of the members of the Architectural Committee. The determination and decision by the Architectural Committee as to whether a variance should be granted shall be final and binding on all Owners, and neither the Architectural Committee nor any of its members shall be liable for damages, claims or causes of action arising out of any decision or action performed or taken hereunder. The Architectural Committee may consider in granting or denying any variance the nature of the use of the land, the structure to be constructed, the topography of the land, land use and structures on surrounding areas, and the effect, if any, of the variance on the appearance of the completed structure. The Architectural Committee may impose such conditions as it deems appropriate in granting any such variance. Any such variance, if granted, shall apply only to the particular property and situation specified, and shall not amend these Restrictive Covenants, or any provisions hereof nor shall it be a variance as to any other property or situation. If any Owner of any Tract fails to maintain the Tract in a neat orderly manner, the Developer or the Architectural Committee shall have the right, through its agents and employees, to enter the Tract in order to repair, maintain and restore the Tract, including landscaping, and the exterior of any building and other improvements located on the tract, all at the expense of the Owner. Such expense shall be an assessment against such Owner and such Owner's Tract(s) to the same extent as provided for other assessments.

B. Servants' Quarters, Gastehouses, and Outbuildings. Subject to all other terms and provisions of these Restrictive Covenants, servants quarters, one gastehaus and outbuilding may be constructed on a Tract, provided however that the plans therefor have been previously approved by the Architectural Committee according to the procedures set forth herein.

C. Exception. Notwithstanding the foregoing, the following tracts are excepted from the one gastehaus provision and shall be permitted additional gastehouses as follows:

Tracts 1 and 38	4 gastehouses
Tracts 2, 3, 6, 13, 14, 30, 31	2 gastehouses
All other tracts	1 gastehaus

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D. Bed and Breakfast. A "Bed and Breakfast" shall be included in the definition of a gastehaus. *Bed and Breakfast* means and refers to temporary lodging services by other persons that provide housing for its occupants for a duration of less than two weeks. Bed and Breakfast shall be permitted on a limited number of Tracts designated and approved by the Architectural Central Committee.

E. Pre-Construction. Notwithstanding the foregoing provisions and subject to the requirements for prior plan review and approval by the Architectural Committee before

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MARY LYNN RUSCHE, County Clerk
Gillespie County, Texas



By: *Julie A. Corbett* Deputy

beginning construction and the Prior Restrictions, servants, quarters and a gastehaus as described herein may be commenced prior to the construction of a primary residence.

F. *Guests*. The number of and the regulations for guests for a gastehaus and Bed and Breakfast shall be specified and approved by the Architectural Control Committee.

G. *Architectural Styles*. Notwithstanding anything to the contrary contained herein, all improvements of any description shall be restricted to and compatible and consistent with the early Gillespie County Construction period consisting of log cabins or log homes, natural limestone construction, early Fredericksburg frame styles, or any combination thereof.

H. *Carports*. Open carports that shelter only automotive vehicles shall be permitted; provided that the wall or side facing any street or streets that abuts or abut the Tract is enclosed to prevent and prohibit viewing of the interior of the carport from the street and provided that any such carport shall be approved by the Architectural Committee.

I. *Driveways*. The driveway(s) on each Tract shall be improved with crushed granite or asphalt (but not caliche) and shall be approved by, and subject to variances granted by, the Architectural Committee. Culverts for driveway shall be in compliance with Gillespie County regulations for County roads.

3. *Occupancy*.

No residence shall be occupied until the exterior thereof shall be completely finished and connected to utilities including water, electrical, and solid waste disposal system, all approved by the governing body controlling, wells and solid waste disposal systems.

4. *On Site Construction*.

No dwelling, house may be moved onto any Tract. All dwelling houses serving as a main residence shall be constructed and built onsite. The relocation or reconstruction of a structure of historic quality and integrity to be used as an accessory building shall be permitted. No mobile, modular, premanufactured, or industrial, built homes shall be used as a dwelling nor stored on any Tract. The terms dwelling house, or purposes set out in this paragraph, the term *dwelling house* shall include servants' quarters and *gastehaus*.

5. *Setback Requirements*

No single family house, servants' quarters, *gastehouses*, outbuildings, mail boxes, or other improvement or structure shall be erected, constructed, placed, or maintained within seventy-five feet of any boundary line of any Tract, except as specified in the Prior Restrictions.

6. *Travel Trailers, Motor Homes, Motor Coaches, and other Recreational Vehicles*.

After completion of a permanent residence, Tract Owners may store their personal travel trailers, motor homes, motor coaches or other recreational vehicles, so long as it is not used as a permanent dwelling and is not stored closer to the road or street than the rear line of the residence. During the period of construction of a dwelling house, Tract owners may camp in

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MARY LYNN RUSCHE, County Clerk
Gillespie County, Texas

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their recreational vehicles on the Tract for a period not exceeding eight months. No overnight camping is allowed at any other time. Any such permitted camping, including location, shall be as approved by the Architectural Control Committee and shall be out of public view.

7. Boats, Trailers, and Other Vehicles.

All boats, boat trailers, stock trailers or trailers of any kind, and at vehicles having a load capacity of greater than one ton shall be out of public view and shall be parked on the property of the Tract Owner to the rear of the main dwelling as and subject to approval by the Architectural Control Committee

8. Resubdivision.

No resubdivision of Tracts shall be permitted except that owners of multiple, contiguous Tracts or a Tract larger than twenty-four total acres, may subdivide tracts provided that such resubdivision does not result in any one Tract being smaller than twelve acres or if applicable the size specified in the Prior Restrictions. Tracts may be combined or portions of one Tract may be combined with another Tract for one site, in which case the setback and other restrictions shall apply to the re-configured and combined site as though it were one Tract.

9. Churches.

No church shall be erected on any Tract in this subdivision.

10. Abandoned or Inoperative Equipment.

No abandoned or inoperative equipment, vehicles or junk shall be permitted or stored on any Tract, road, or street in this subdivision.

11. Animals.

Swine, sheep, goats, cattle and other livestock shall not be permitted on any Tract except as hereinafter provided and permitted. Domestic pets, including dogs and cats, shall be permitted subject to the provisions hereof. All livestock, pets and other animals permitted hereunder shall be kept within the boundaries of said Tract at all times and shall not be offensive to adjacent Tract Owners by smell, sight, sound, or otherwise and shall not result in overgrazing. No commercial feeding, breeding, boarding or similar uses, activities or operations shall be conducted on any Tract. Horse and exotic animals such as llamas, longhorn cattle and various nonnative species shall be allowed on any Tract. The number of horses, livestock, and other animals (except domestic pets) shall be limited to one such animal per every three acres of each Tract. Tract 11 shall not be limited by, and shall be exempt from, the restrictions set forth in this Paragraph 11.

12. Nuisances/Trash.

No person shall cause, permit, or allow any noxious condition or offensive activity on any Tract or do anything thereon that is an annoyance or nuisance to the Property and its Owners. Owners shall keep their property clean and neat in appearance and free of litter at all times, including the occasional mowing of grass and weeds. No person shall cause or permit

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Gillespie County, Texas



By: *Mary Lynn Rusche* Dep

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the disposal of trash or garbage of any kind on a Tract or in a Common Area that would adversely affect the natural beauty and value of any Tract. The Property shall not be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers which are not visible from any road and equipment for the storage and disposal of such material shall be kept in a clean and sanitary condition; provided, however, that the Homeowners Association may engage trash service for the Property and all Owners shall participate in such trash service and pay the cost thereof per Tract. No person shall bury any garbage or refuse on any Tract. No Owner shall permit anything or condition to exist upon any Tract which shall induce, breed or harbor plant disease or noxious insects. No open fires, burning or clearing shall be permitted on any Tract or within the Property at any time and no incinerators or like equipment shall be placed, allowed or maintained upon any Tract, without approval of the Architectural Committee. The foregoing shall not be deemed to preclude the use, in customary fashion, of fireplaces and outdoor residential barbeques, grills or fireplaces, subject to the covenants hereof pertaining to the approval of improvements by the Architectural Committee.

13. Fences.

No person shall construct any fence on any Tract unless such fence consists of new material, professional in appearance, and is completed in a good and workmanlike manner as to quality and appearance. No person shall construct any fence nearer than 25 feet from the right of way boundary of any street that abuts the Tract. The Architectural Committee reserves the right to prescribe the nature and location of fencing in a style consistent with an entrance to the Subdivision.

14. Firearms.

Except as otherwise provided in this subparagraph, no person shall hunt or cause or permit the hunting of any animals or birds on any Tract or in any Common Area, nor shall any person discharge a firearm on a Tract or in a Common Area for any purpose other than (A) the protection of the health, safety, or welfare of a person or an individual's property; (B) the control of pests, varmints, or predators with a shotgun or .22 caliber rifle or handgun using bird or rat shot, pellets, or .22 CB short or long cartridges, or (C) the implementation of the wildlife management plan referred to in Section 7, which person or persons shall be the only person or persons allowed to harvest game. At all times any firearm is discharged, the person discharging such Firearm shall give due regard to the personal safety of the Owners and occupants of neighboring Tracts and may discharge such firearms only in such manner as not to pose a safety hazard or a nuisance to other Owners or occupants. No person shall cause or permit the prolonged or consistent discharge of firearms on any Tract or in any Common Area for any reason. Notwithstanding any other provision in this subparagraph 14 or in these Restrictive Covenants, the Executive Manager of the Developer or, after 65% of the subject Tracts have been sold, the president of the Homeowners Association may in his sole discretion designate one or more persons to use appropriate firearms to implement the relevant provisions of a wildlife management plan that complies with Texas Property Code § 23.5 1.

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MARY LYNN RUSCHE, County Clerk
Gillespie County, Texas



By Jelena Cornejo Deputy

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15. *Alternation of Drainage or Water Courses.*

No Tract owner shall alter the natural drainage of surface water over and across said Tracts, except as approved by, and with such limitations as may be prescribed by, the Architectural Central Committee.

16. *Mineral Exploration/Timber.*

No oil, gas or other mineral exploration of any type shall be permitted on any Tract. No oil exploration, drilling, development or refining operations and no quarrying or mining operations of any kind, including oil wells, surface tanks, tunnels or mineral excavations or shafts shall be permitted upon or under any Tract; and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Tract. No timber or tree of any kind may be cut on any Tract by any Owner on any of the Common Areas (except for construction as herein provided), without the express consent of the Architectural Committee.

17. *Signs.*

No sign of any kind shall be displayed to the public view on any lot except one of not more than, two square feet to identify the owner only, or one sign of not more than five square feet advertising a Tract for sale or rent, or signs used by a builder to advertise the property during the construction and sales period. All permitted signs shall be professional in appearance. The Developer may erect signs of larger size in order to advertise the development as long as there remain any unsold lots in the development. Temporary garage sale signs are permitted for short periods only.

18. *Radio and Television Equipment.*

No radio or television aerial wires, tower, antenna or other special television apparatus or equipment, satellite dish, dishes, disc or other transmission equipment shall be maintained on any portion of any Tract forward of the front building line of the main structure. No radio or television tower or antenna whose height extends more than 70 feet above the surface of the tract at the point at which the tower is erected shall be placed or maintained on any Tract. No guy wires or supporting cables shall be attached to radio or television towers. Such towers must be freestanding. Telescopic tubular television towers with support wires may be erected upon or attached to a residence provided all support wires are attached and anchored to the residence.

19. *Permitted House Occupations.*

The conduct of a home occupation shall be a permitted use which is incidental to the single family residential use restriction herein specified, only under the following terms and conditions expressly allowed in this subsection:

A. The home occupation shall be conducted entirely within a dwelling unit that is the bona fide residence of practitioners or entirely within one accessory garage building other than a carport.

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Gillespie County, Texas



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B. No person other than a family member who resides in the dwelling unit shall participate in the home occupation on the premises.

C. The residential character of the Tract and dwelling shall be maintained and no additional buildings shall be added on the property for home occupation.

D. The home occupation shall not generate any customer or client related vehicular traffic.

E. No direct selling of merchandise shall occur on the premises.

F. No equipment or materials associated with the home occupation shall be displayed or stored where visible from anywhere off the Tract premises,

G. The occupation shall not produce external noise, vibration, smoke, dust, odor, heat, glare, flames, electrical interference, or waste run-off outside the dwelling unit or on the property surrounding the dwelling.

H. No vehicle used in connection with the home occupation that requires a commercial driver's license to operate shall be parked on any Tract or Common Area.

I. The home occupation shall not be advertised by any signs on the Tract premises, nor shall the street address of the home occupation be advertised through signs, billboards, television, radio, newspapers, or other forms of direct advertising.

J. Nothing herein shall be construed to allow the following businesses or occupations as home occupations: animal hospitals, animal breeding, clinics, hospitals, contractor yards, dancing schools, junk yards, restaurants, rental outlets, vehicle repair shops or massage parlors.

K. Cottage industries that include artisans, artists, painters, photographers, musicians, writers, computer programmers, wood, metal or glass sculptor or other non-offensive activities shall be permitted.

20. *Exemptions.*

To the extent there are any preexisting structures (as of the date hereof) on Tract 11 they are exempt from and shall not be in violation of these Restrictive Covenants.

21. *Utility and Service Lines.*

No electric, power, telephone, water, sewer, cable television or other utility or service lines of any nature or kind shall be placed, allowed or maintained upon or above the ground on any Tract, except to the extent, if any, underground placement thereof may be prohibited by law or would prevent the subject line from being functional. The foregoing shall not prohibit service pedestals and above ground switch cabinets and transformers where required. The Owner of each Tract shall, at his own cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and applicable codes) the underground service

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cable and appurtenances from the point of the metering on customer's structure to the point of attachment at installed transformers or energized secondary junction boxes. Each Owner of each Tract shall, at his own cost, furnish, install, own and maintain a meter loop (in accordance with the then current standards and specifications of the company furnishing service) for the location and installation of the meter of such company for such Owner's Tract. For so long as underground service is maintained, the services to each Tract therein shall be underground and uniform in character.

SECTION 6. EASEMENTS

Easements for installation, maintenance, repair and removal of utilities (including, but not limited to, water, telephone, power, gas and street lighting and drainage facilities and floodway easements over, under and across the Property) are reserved by Developer for itself, its successors and assigns. Developer shall have the right to grant easements for such purposes over, under and across the Property. Full rights of ingress and egress shall be had by Developer, and its successors and assigns, at all times over the Property for the installation, operation, maintenance, repair or removal of any utility together with the right to remove any obstruction that may be placed in such easement, or with the use, maintenance, operation or installation of such utility. Notwithstanding the foregoing, however, Developer covenants that at any such time as the utilities referred to in this Section shall have been installed or otherwise located on the Property, Developer will by written instrument recorded define the exact location of each such easement and will release the remainder of the Property from the provisions of this Section. Any such instrument when executed and filed of record by Developer shall be effective to limit the location of the easement provided for therein in accordance with its terms and conditions, notwithstanding that the utility company may not have executed such instrument. Full rights of ingress and egress shall be had by the Homeowners Association at all times over and upon each Tract for the maintenance and repair of each Tract in accordance with the provisions hereof, and for the carrying out by the Homeowners Association of its functions, duties and obligations hereunder; provided, that any such entry by the Homeowners Association upon any Tract shall be made with as minimum inconvenience to the Owner as practical, and any damage caused thereby shall be repaired by the Homeowners Association at the expense of the Maintenance Fund.

SECTION 7. WILDLIFE MANAGEMENT

The Homeowners Association is hereby specifically granted the right to develop and implement a wildlife management plan for the Property that complies with the Texas Property Code § 23.51. The Homeowners Association is appointed the agent of each Owner to prepare and file an application on behalf of each Owner for qualified Open Space land used for wildlife management. Each Owner agrees to the payment of dues and assessments for the purpose of implementing and carrying out such wildlife management plan. The Homeowners Association may designate a representative to act for it with respect to tax appraisal qualifications/filings and wildlife management.

The Homeowners Association shall be responsible for overseeing the management of the free roaming wildlife within the Property. In this regard, the Homeowners Association shall have an annual wildlife survey ("Survey") performed on the Property by a competent wildlife consultant. The Survey shall project the total numbers of sex of each species of wildlife on the

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(Handwritten signature)

Property and shall contain the recommendation as to harvest numbers by sex for each species. The Homeowners Association shall use the Survey and the harvest recommendations to determine harvest quotas on what the Property shall produce and such other criteria that the Homeowner's Association deems to be in the best interest of sound management of the wildlife herd on the Property. The Homeowners Association shall be responsible for enforcing the provisions of these Restrictive Covenants relating to wildlife management and shall determine all disputes concerning wildlife between Owners. The Homeowners Association's decision regarding a dispute between Owners concerning wildlife shall be final and shall be binding on all parties thereto.

SECTION 8. MAINTENANCE FUND

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1. Maintenance Fund Obligation/Lien.

Each Owner of a Tract by acceptance of a deed therefor, whether or not it shall be expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Homeowners Association as to each Tract platted upon the subdivision plat a monthly maintenance charge (the "Maintenance Charge") and any other assessments or charges hereby levied. The Maintenance Charge and any other assessments or charges hereby levied, together with such interest thereon and costs of collection thereof, including reasonable attorney's fees, shall be a charge on the Tracts and shall be a continuing lien upon the property against which each such Maintenance Charge and other assessments and charges are made. Developer, for each Tract owned by it within the Property, hereby covenants and agrees, and each purchaser of any Tract by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Homeowners Association the Maintenance Charge and other assessments or charges fixed, established and collected from time to time as herein provided. The Maintenance Charges and assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on and shall be a continuing lien upon each Tract against which each such Maintenance Charge and assessment is made. Each such maintenance charge and assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the continuing personal obligation of the person who was the Owner of such property at the time when the assessment became due. The Developer shall have, at its election, the right in common with the Homeowners Association to improve and maintain the Common Areas and to exercise the duties of the Board of Directors of the Association and to pay taxes on and insurance in connection with the Common Areas and the cost of repairs, replacements and additions thereto, and for paying the cost of labor, equipment (including the expense of leasing any equipment) and materials required for, and management and supervision of, the Common Areas. In this regard, all assessments, both annual and special, collected by the Homeowners Association (less such amounts required for the operation of the Homeowners Association) shall be forthwith paid by the Homeowners Association to Developer, to the extent that such assessments are required by Developer to improve and maintain the Common Areas as set forth in this paragraph and to carry out the duties of the Board of Directors of the Homeowners Association. The Homeowners Association shall rely upon a certificate executed and delivered by the Developer with respect to the amount required by Developer to improve and maintain the Common Areas hereunder and to carry out the duties of the Board of Directors of the Homeowners Association. All Maintenance Charges and

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BY *Patricia Corral* Deputy

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assessments must be fixed at a uniform rate for all Tracts except as otherwise expressly provided in this Declaration.

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2. *Basis of the Maintenance Charge.*

A. The Maintenance Charge referred to shall be used to create a fund to be known as the "Maintenance Fund" which shall be used as herein provided; and each such Maintenance Charge (except as otherwise hereinafter provided) shall be paid by the Owner of each Tract to the Homeowners Association annually, in advance, on or before the first day of each calendar year, beginning on the date of purchase of the Tract, or on such other basis (quarterly, semi-annually, or annually) as Developer or the Board of Directors of the Homeowners Association may designate in its sole discretion.

B. The Maintenance Charge shall be an annual assessment fee of \$250.00 until 50 % of the Tracts are sold, at which time the Homeowners Association shall assume responsibility for determining and collecting the amount of assessments due under this provision. At that time the Board of the Homeowners Association shall determine and assess a Maintenance Charge for the maintenance and operation of the Common Areas or for any purposes set forth in this section. The Maintenance Charge shall not be increased in excess of ten percent (10%) annually without approval of the Owners of 65% of the Tracts and Developer so long as it owns any Tract.

C. Any Maintenance Charge not paid within thirty days after the due date shall bear interest from the due date at the lesser of (Q) the rate of eighteen percent (18%) per annum or (U) the maximum rate permitted by law. The Homeowners Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the herein described lien against the Owner's Tract. No Owner may waive or otherwise escape liability for the Maintenance Charge by non-use of any Common Areas available for use by Owners or by the abandonment of his Tract.

D. The exact amount of the Maintenance Charge applicable to each Tract will be determined by the Board of Directors of the Homeowners Association during the month preceding the due date of the Maintenance Charge. All other matters relating to the Maintenance Charge and the collection, expenditure, and administration of the Maintenance Fund shall be determined by the Board of the Homeowners Association subject to the provisions hereof.

3. *Creation of Lien and Personal Obligation.*

Any and all such Maintenance Charges and charges and assessments levied hereunder, together with any interest which may accrue thereon in accordance with these Restrictive Covenants, and any and all costs and reasonable attorney's fees which may be incurred by the Homeowners Association in the collection of such Maintenance Charge and other charges and assessments levied hereunder, or in the enforcement of the covenants, conditions and restrictions of these Restrictive Covenants against any Tract or the Owner thereof, or shall also be the personal obligation of the person who was the Owner of such Tract at the time when the Maintenance Charge or other charges and assessments fell due or the enforcement of the covenants, conditions, and restrictions of these Restrictive Covenants was commenced. The

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Mary Lynn Rusche

personal obligation for the delinquent Maintenance Charge and/or other charges and assessments shall not pass to the successor in title of any Owner unless expressly assumed by such successor in title, but shall be secured by the continuing lien upon the Tract in favor of the Homeowners Association.

4. *Effect of Non-Payment of Maintenance Charge and Other Charges and Assessments; Remedies of the Association.*

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A. The Homeowners Association may bring an action at law against the Owner personally obligated to pay the Maintenance Charge and other charges or assessments levied hereunder or foreclose the lien against the Tract, regardless whether the current Owner has personal liability for the payment of same, and all interest, costs and reasonable attorney's fees incurred in any such action shall be added to the amount of any such Maintenance Charge and other charges and assessments levied hereunder. Each such Owner, by his acceptance of a deed to a Tract, hereby expressly vests in the Homeowners Association or its agents, the right and power to bring all actions against such Owner personally for the collection of such Maintenance Charge and other charges or assessments levied hereunder as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens against real property, including foreclosure by judicial action brought in the name of the Homeowners Association or by nonjudicial foreclosure pursuant to Texas Property Code and such Owner hereby (i) expressly grants to the Homeowners Association in extra judicial power of sale in connection with the nonjudicial foreclosure of said lien, and (ii) in addition, expressly grants and vests in the Homeowners Association the right, power and authority to exercise such power of sale through a trustee (or substitute or successor trustee, as may be the case from time to time) appointed in writing by the Homeowners Association acting by and through its duly authorized President or Vice President. If the trustee appointed and designated by the Homeowners Association to exercise the power of sale and to conduct a foreclosure sale in accordance with the terms of these Restrictive Covenants shall die or become disqualified in the execution of the power of sale, or shall fail or refuse to exercise the same when requested by the Homeowners Association, or if, for any reason, the Homeowners Association shall prefer to appoint a substitute trustee to act instead of any appointed and designated trustee, the Homeowners Association shall have full power to appoint, at any time by written instrument, a substitute trustee, and, if necessary, several substitute trustees in succession, who shall succeed to all of the estate, rights, powers and duties of the trustee under the terms of these Restrictive Covenants, and no notice of such appointment need be given to the Tract Owner or to any other person except the filing for record in the office of the County Clerk of Gillespie County, Texas.

B. In the event that the Homeowners Association has determined to nonjudicially foreclose the lien provided herein pursuant to the provisions of the Texas Property Code § 51.002 and to exercise the power of sale hereby granted, the Homeowners Association shall mail to the defaulting Owner a copy of the Notice of Trustee's Sale not less than twenty-one days prior to the date on which said sale is scheduled by posting such notice through the United States Postal Service, postage prepaid, certified, return receipt requested, property addressed to such Owner at the last known address of such Owner according to the records of the Homeowners Association. If required by law, the Homeowners Association or Trustee shall also cause a copy of the Notice of Trustee's Sale to be recorded in the Real Property Records of Gillespie County, Texas. The Homeowners Association, acting by and through a duly authorized officer or the Trustee and on behalf of the Tract Owners, shall have the power to bid for the interest foreclosed at any foreclosure sale conducted pursuant to the terms hereof and to

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acquire and hold, lease, mortgage and convey such interest on behalf of the Tract Owners. Out of the proceeds of such sale, if any, there shall first be paid all expenses incurred by the Homeowners Association in connection with such default, including reasonable attorneys' fees and a reasonable trustee's fee; second, from such proceeds there shall be paid to the Homeowners Association an amount equal to the amount in default, together with all charges related thereto; and, third, the remaining balance, if any, shall be paid to such Owner. Following any such foreclosure, each occupant of any such Tract 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 possession thereunder. Further, each Owner, by acceptance of a Deed to a Tract, hereby stipulates and agrees that the recitals contained in any Trustee's or Substitute Trustee's Deed or other instrument executed in due form by any trustee or substitute trustee, acting under the provisions of these Restrictive Covenants, shall be prima facie evidence of the facts recited therein, and that it shall not be necessary to prove in any court, other than by such recitals, the existence of the facts essential to authorize the execution and delivery of such deed or deeds or other instrument in the passing of title thereby, and all prerequisites and requirements of any sale or sales shall be conclusively presumed to have been performed, and all persons subsequently dealing with the interest purported to be conveyed by such deed or deeds or other instrument shall be fully protected in relying upon the truthfulness of such recitals.

C. It is the intent of the provision of this section to comply with the provisions of Texas Property Code §51.002 as amended relating to nonjudicial sales by power of sale. Hereafter, the President or any Vice President of the Association, acting without joinder of any other Owner or mortgagee or other person may, by amendment to these Restrictive Covenants filed in the Real Property Records of Gillespie County, Texas, amend the provisions hereof so as to comply with said amendments to Texas Property Code §51.002.

5. *Notice of Lien.*

In addition to the right of the Homeowners Association to enforce the Maintenance Charge and other charges and assessments levied hereunder, the Homeowners Association may (but shall not be required to) file a claim or lien against the Tract of the delinquent Owner by recording a notice ("Association Notice of Lien") setting forth (i) the amount of the claim of delinquency, (ii) the interest and costs of collection which have accrued thereon, (iii) the legal description and street address of the Tract against which the lien is claimed and (iv) the name of the Owner thereof. Such Association Notice of Lien shall be signed and acknowledged by the officer of the Homeowners Association and other duly authorized agent of the Homeowners Association. The lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Association Notice of Lien and all other costs and assessments which may have accrued subsequent to the filing of the Association Notice of Lien have been fully paid or satisfied, the Homeowners Association shall execute and record a notice releasing the lien upon payment by the Owner of a reasonable fee as fixed by the Board of Directors to cover the preparation and recordation of such release of lien instrument.

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MARY LYNN RUSCHE, County Clerk
Gillespie County, Texas



By [Signature] Deputy

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By Jelicia [Signature] Deputy

6. *Liens Subordinate to Mortgages.*

The liens described in this section and the superior title herein reserved in favor of the Homeowner Association shall be deemed subordinate to a first lien or other liens of any bank, insurance company, savings and loan association, university, pension and profit sharing trusts or plans, or other bona fide, third party lender, including Developer, which may have heretofore or may hereafter lend money in good faith for the purchase or improvement of any Tract and any renewal, extension, management of refinancing them. Each such mortgagee of a mortgage encumbering a Tract who obtains title to such Tract pursuant to the remedies provided in the deed of trust or mortgage or by judicial foreclosure shall take title to the Tract free and clear of any claims for unpaid Maintenance Charges or other charges and assessments against such Tract which accrued prior to the time such holder acquired title to such Tract. No such sale or transfer shall relieve such holder acquiring title to a Tract from liability of any Maintenance Charges or other charges or assessments thereafter becoming due or from the lien thereof. Any other sale or transfer of a Tract shall not affect the Homeowners Association's lien for Maintenance Charges or other charges and assessments levied hereunder. The Homeowners Association shall make a good faith effort to give each such mortgagee sixty days advance written notice of the proposed foreclosure of its respective liens in accordance with this section, which notice shall be sent to the nearest office of such mortgagee by prepaid United States registered or certified mail, return receipt requested, and shall contain a statement of the delinquencies or other charges or assessments upon which the proposed action is based; provided, however, the failure to give such notice shall not impair or invalidate any foreclosure conducted by or on behalf of the Homeowners Association pursuant to the provisions of this section.

7. *Purpose of the Maintenance Charge.*

The Maintenance Charge levied by the Homeowners Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the Property. In particular, the Maintenance Charge shall be used for any improvement or services in furtherance of these purposes and the performance of the Homeowners Association's duties described in this section, including the maintenance of the Common Areas and the establishment and maintenance of a reserve fund for maintenance of the Common Areas. The Maintenance Fund may be expended by the Homeowners Association for any purposes which, in the judgment of the Homeowners Association, will tend to maintain the property values in the Property, including, but not limited to, providing funds for the actual cost to the Homeowners Association of all taxes, insurance, repairs, energy charges, replacement and maintenance of the Common Areas as may from time to time be authorized by the Board of Directors of the Homeowners Association, and other facilities, services and activities as may from time to time be authorized by the Board of Directors, including, but not limited to, construction, maintenance and operation of an administration and/or maintenance building (a) salaries of personnel and fees paid to independent contractors, mowing of grass and weeds within the Property and maintaining and caring for the Common Areas rent or purchase of any equipment needed to perform the duties of the Homeowners Association and maintenance or replacement of such equipment, the operation, maintenance, repair and replacement of parks, recreational grounds and equipment and improvements, payment of all legal and other expenses incurred in connection with the enforcement of these Restrictive Covenants, payment of all reasonable and

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necessary expenses in connection with the collection and administration of the Maintenance Charge and other charges and assessments required by these Restrictive Covenants or that the Board of Directors shall determine to be necessary to meet the primary purposes of the Homeowners Association. Except for the Homeowners Association's use of the Maintenance Charge to perform its duties described in these Restrictive Covenants and in its Bylaws, the use of the Maintenance Charge for any of these purposes is permissive and not mandatory. It is understood that the judgment of the Homeowners Association as to the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

8. *Exempt Property.*

The following property subject to these Restrictive Covenants shall be exempt from the Maintenance Charge and all other charges and assessments created herein: (a) all properties dedicated to and accepted by a local public authority; (b) the Common Areas; and (c) all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Texas; however, no land or improvements devoted to dwelling use shall be exempt from said Maintenance Charge except as otherwise provided in this section.

SECTION 9. ENTRANCEWAY/MAIL BOXES

Developer will construct mail boxes on Tract 1 and an entranceway to the Property at the subdivision's intersection with FM 2721. Mail boxes and such entranceway and the pad on which the mail boxes are located shall be part of and included in the Common Areas. Developer shall maintain, repair, and illuminate the entranceway for the period ending when 60 percent of the said Tracts are sold. Thereafter, Developer shall have no duty, obligation, or responsibility to repair, maintain, and illuminate the entranceway. Such responsibility shall then be an obligation and burden of the Homeowners Association. The Owners shall receive mail delivery only at such mail boxes and no individual mail boxes, and no mail delivery, shall be permitted on or to any Tract.

SECTION 10. DURATION AND AMENDMENT

These Restrictive Covenants shall be binding and effective until December 31, 2014, A.D., at which time these Restrictive Covenants shall be automatically extended for successive periods of ten (10) years unless terminated in writing by the Owners of a majority of the Tracts within the Property.

The Owners of 65% of the Tracts within the Property may amend these Restrictive Covenants by executing an instrument waiving or amending the restrictions, protective covenants, or conditions in these Restrictive Covenants, each Tract having one vote per Tract no matter the number of Owners. A Tract Owner shall be deemed to be the record owner of legal title as shown by the Real Property Records of Gillespie County, Texas, ten business days prior to the first date such instrument is executed. Any amendments shall be in writing and shall not be effective until duly recorded in the Real Property Records of Gillespie County, Texas. A copy of the amendments as recorded shall be forwarded to the last known address of all Tract Owners.

Notwithstanding anything to the contrary herein, Developer shall have the right at any time at its sole discretion and without any joinder or consent of any other party, to amend this

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Declaration for the purposes of correcting any error, ambiguity, or inconsistency appearing herein or for any reason whatsoever deemed necessary for the benefit of the overall development as the Developer in its sole discretion determine and such amendment shall be effective upon filing with the County Clerk of Gillespie County, Texas.

SECTION 11. PARTIAL INVALIDITY AND WAIVER

If any term, or provision of this instrument or the application thereof shall be held to be invalid, all other terms and provisions of this instrument or the application thereof shall not be affected thereby. Nor shall any failure of the Developer or a Tract Owner to seek enforcement of or determination of the validity of any term or provision of this instrument constitute a waiver of any right to do so in the future.

SECTION 12. ENFORCEMENT

1. *Right to Enforcement/Severability/Covenants.*

The Developer, the Homeowners Association and every other person, firm, or corporation hereafter having any right, title, or interest in any Tract or parcel of land in the Property on shall have the right to enforce at law or in equity in Gillespie County, Texas, all restrictions and covenants in this instrument. Failure to enforce any covenant or restriction shall not be deemed a waiver of the right of enforcement either with respect to the violation in question or any other violation. All waivers must be in writing and signed by the party to be bound. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, and all other provisions shall remain in full force and effect. These easements, restrictions, covenants and conditions are for the purpose of protecting the value and desirability of the Property. Consequently, they shall run with the Property and shall be binding on all parties having any right, title or interest in the Property in whole or in part and their heirs, successors and assigns. These Restrictive Covenants shall be for the benefit of the Property, each Tract and each Tract Owner.

2. *Nonwaiver.*

The failure of Developer to take any action upon any breach or default shall not be deemed a waiver of their right to take action upon any subsequent breach or default. Developer, for itself, its successors or assigns, reserves the right to enforce these restrictive covenants, though it may have previously sold and conveyed all subdivided tracts in the Subdivision controlled by these covenants.

3. *Effect on Developer.*

The reservation by Developer of this right of enforcement shall not create a duty or obligation of any kind to enforce same, and Developer shall not be subject to any claim, demand, or cause of action from any Owner by virtue or not enforcing any restrictions herein contained.

4. *Attorney's Fees.*

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By Alicia Cornish Deputy

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If any controversy, claim or dispute arises relating to this instrument, its breach, or enforcement, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees and costs.

5. *Liberal Interpretation.*

These Restrictive Covenants shall be liberally construed to effectuate its purpose of creating a uniform plan for the Property.

6. *Headings.*

The headings contained in these Restrictive Covenants are for reference purposes only and shall not in any way affect the meaning or interpretation of these Restrictive Covenants.

7. *Notices.*

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

8. *Disputes.*

In the event of any dispute, disagreement, controversy or claim arising out of, or related to these Restrictive Covenants and/or any act or omission of any party hereto, the parties agree that such dispute, disagreement, controversy or claim shall be determined by arbitration under the commercial arbitration rules of the American Arbitration Association, which shall be commenced at any time by either party by filing a demand for arbitration upon the other party or parties. The arbitrator shall be selected by the mutual approval of the parties and if no mutual approval is achieved within thirty (30) days, any party may petition a District Judge sitting in Gillespie County, Texas, to appoint such arbitrator. The decision of the arbitrator shall be final and binding on all parties. The statute of limitations, estoppel, waiver, laches and similar doctrines which would otherwise be applicable in any action brought by a party shall be applicable in any arbitration proceeding, and the commencement of an arbitration proceeding shall be deemed the commencement of an action for these purposes.

EXECUTED this 22ND day of September, 2000.

HILLS OF SEVEN FALLS, LLC

By: Deane C. Watson, Jr.

Deane C. Watson, Jr., Executive Manager

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By: Debra L. Rusche Deputy

