

Inst BK
1129 OR
Edwards County
Olga Lydia Reyes
Edwards County District Clerk
Rocksprings, Tx 78880

Vol
399
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348



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Instrument Number: 2020-1129

As

Recorded On: November 06, 2020

Recording Fee

Parties: CONTRARY CREEK RANCHES

Billable Pages: 14

To PUBLIC

Number of Pages: 14

Comment:

(Parties listed above are for Clerks reference only)

**** Examined and Charged as Follows: ****

Recording Fee 78.00
Total Recording: 78.00

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Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

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1802 MAIN STREET, SUITE C
JUNCTION TX 76849



I hereby certify that this instrument was filed on the date and time stamped hereon and was duly recorded in the Official Public Records of Edwards County, Texas.

Olga Lydia Reyes, County Clerk
Edwards County, Texas

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
CONTRARY CREEK RANCHES**

**STATE OF TEXAS §
§
COUNTY OF EDWARDS §** **KNOW ALL MEN BY THESE PRESENTS**

This Declaration is made on the date hereinafter set forth by Wasape Properties, LLC, a Texas limited liability company, duly-authorized to do business in the State of Texas, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of that certain tract of land known as CONTRARY CREEK RANCHES SUBDIVISION, being a residential subdivision situated in Edwards County, Texas according to the plat ("Plat") of Contrary Creek Ranches Subdivision, recorded in the Official Public Records of Real Property of Edwards County, Texas, after having been approved as provided by law, in Volume 3, Pages 183-185, Official Public Records of Real Property of Edwards County, Texas, and all such other plats or re-plats of any real property which may hereafter be annexed to these Restrictions (hereinafter referred to as the "Property", "Properties" or the "Subdivision"); and,

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

WHEREAS, Declarant desires to ensure the preservation of the value the Property, together with such additions as may be later added to it, to the covenants, restrictions, easements, charges, and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each of the owners thereof; and,

WHEREAS, CONTRARY CREEK RANCHES ROADWAY ASSOCIATION has been or will be formed under the laws of the State of Texas as an unincorporated association for the purpose of exercising the functions aforesaid as to CONTRARY CREEK RANCHES SUBDIVISION, a residential subdivision in Edwards County, Texas, as shown on the Plat, and such other real property as may be annexed thereto and become subject to the jurisdiction of said Association; and,

WHEREAS, Declarant desires to conform the restrictions on use of the herein described real property as necessary for the purpose of subjecting said Property and the Owners thereof to the jurisdiction of said CONTRARY CREEK RANCHES ROADWAY ASSOCIATION; and,

WHEREAS, it is the desire of Declarant to place certain restrictions, easements, covenants, conditions, stipulations and reservations (herein sometimes referred to as the "Restrictions") upon

and against such Property in order to establish a uniform plan for the development, improvement and sale of the Property, and to insure the preservation of such uniform plan for the benefit of both the present and future owners of Lots in said Subdivision, such that the Property, and all land annexed thereto, shall be hereafter held, conveyed, hypothecated, encumbered, sold, leased, rented, used, occupied and improved subject to the covenants, conditions and restrictions set forth below;

NOW, THEREFORE, Declarant hereby adopts, establishes and imposes upon CONTRARY CREEK RANCHES SUBDIVISION these Restrictions, and declares the following reservations, easements, restrictions, covenants, and conditions applicable thereto, for the purposes of enhancing and protecting the value, desirability and attractiveness of said Property, which Restrictions shall run with said Property and title or interest therein, or any part thereof, and shall inure to the benefit of each Owner thereof and the Property shall hereafter be subject to the jurisdiction and assessments of the CONTRARY CREEK RANCHES PROPERTY OWNERS' ASSOCIATION.

ARTICLE I DEFINITIONS

Section 1.01 "Additional Land" shall mean and be defined as set forth in Section 2.08 below.

Section 1.02 "Association" shall mean and refer to Contrary Creek Ranches Roadway Association, the mandatory association of Owners of Lots within the Property, established pursuant to Article II below.

Section 1.03 "Board of Directors" and "Board" shall mean and refer to the Board of Directors of the Association.

Section 1.04 "Bylaws" shall mean and refer to the Bylaws of the Association.

Section 1.05 "Common Area" shall mean the property owned, leased or maintained by the Association for the benefit of the members.

Section 1.06 "Declarant" shall mean Wasape Properties, LLC, as well as any other person or entity who is a successor to Wasape Properties, LLC, or who shall have had their rights or duties as Declarant assigned to them.

Section 1.07 "Development Period" shall mean and refer to that period of time described in Section 10.01 herein.

Section 1.08 "Lot" or "Lots" shall mean and refer to any plot of land identified as a Lot or home site on any plat or replat of the Subdivision or any part thereof, excepting the Common Area.

Section 1.09 "Member" shall mean and refer to each person or entity who is a member of the Association pursuant to the Bylaws.

Section 1.10 "Owner" shall mean and refer to the record owner, according the Official Public Records of Real Property of Edwards County, Texas, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Property, including (i) contract sellers, but excluding the Association and those having such interest merely as security for the performance of an obligation and those who have only an interest in the mineral estate, (ii) Declarant (except as otherwise provided herein,) and (iii) Builders.

Section 1.11 "Property", "Properties" and/or "Subdivision" shall mean and refer to Contrary Creek Ranches Subdivision, Unit 1, as shown by the Plat, subject to the Restrictions set forth herein and/or in the Subdivision Plats, and any additional properties made subject to the terms hereof, pursuant to the provisions set forth herein.

Section 1.12 "Restrictions" shall mean and refer to this Declaration, as it now exists and as it may hereafter from time to time be amended.

ARTICLE II
ASSOCIATION MEMBERSHIP AND
CLASS OF MEMBERSHIP

Section 2.01 Mandatory Membership. Each Owner shall automatically be a member of the Association so long as they are an Owner. Membership in the Association is a mandatory requirement incident to ownership of a Lot. No Owner may exempt themselves from membership in the Association.

Section 2.02 Classes of Membership. The Association shall have two classes of membership set forth on the Bylaws.

Section 2.03 Board Election and Appointment. Declarant shall have the sole and exclusive right, for ten years from the date this Declaration is recorded, to appoint and replace all members of the Board. On or before the 120th day after the date 75% of the Lots that may be created and made subject to this Declaration are conveyed to Owners other than Declarant or a builder in the business of constructing homes who purchased the Lots from the Declarant for the purpose of selling completed homes built on the Lots, at least one-third of the Board members must be elected by Owners other than the Declarant. At such time as Declarant shall have sold their last Lot in the Subdivision the Association shall hold a meeting of its members and elect shall members of the Board. After the election of the third elected director, in accordance with the Bylaws, all members of the Board of Directors must be Owners. Notwithstanding anything to the contrary, until such election of the third elected director has taken place, the management of the Association shall be by Declarant and/or its agents and representatives, and any expenses incurred in such management shall be reimbursed to Declarant by the Association, including, without limitation, the cost of Declarant or its agents and representatives for the time spent in the management of the Association. THE ASSOCIATION SHALL INDEMNIFY AND HOLD

DECLARANT HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS OR DAMAGES OF EVERY KIND ARISING OUT OF THE OPERATIONS OF THE ASSOCIATION AND THE DEVELOPMENT, EVEN IF DECLARANT IS ALLEGED OR ADJUDICATED TO HAVE BEEN NEGLIGENT.

Section 2.04 Incorporation. The Association may be converted to a non-profit corporation upon approval of such conversion by vote of the members.

ARTICLE III ASSESSMENTS

Section 3.01 Creation of Lien and Personal Obligation of Assessments. Declarant, for each Lot conveyed by it within the Properties, hereby covenants, and each Owner of any Lot 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 Association: (1) Annual Assessments or charges, (2) Special Assessments for capital improvements or extraordinary expenses, and (3) Capital Contribution Assessments, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The Annual, Special and Capital Contribution Assessments, together with such interest thereon and costs of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made, as well as the personal obligation of the person who was the Owner of such Lot at the time the obligation accrued.

Section 3.02 Purpose of Assessments. The assessments levied by the Association shall be used for the purpose of promoting recreation, health, safety and welfare of the Members, preserving or enforcing the rights and obligations of the Owners and the Association, or for the improvement, maintenance and operation of the Properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Properties by the Members. This Section shall not limit the Board of Directors of the Association in its discretionary authority as to spending.

Section 3.03 Basis of Annual Assessment. The Annual Assessment shall be determined by the Board of Directors in the manner provided for herein after determination of current and prospective maintenance costs and repairs and anticipated needs of the Association. The annual assessment for fiscal year 2021 shall be \$950.00 per Lot. Any Lot purchased from Declarant shall be subject to a prorated assessment due at closing in an amount equal to the annual assessment multiplied by the percentage of the fiscal year remaining from the date of purchase to the end of that year.

Section 3.04 Special Assessments. In addition to the Annual Assessments provided for in Section 8.03, the Association may levy, in any assessment year, a Special Assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement on or which is a part of the Common Facilities, or to finance or defray the cost of any extraordinary expense of the Association, provided that any such assessment shall have the assent of two-thirds of the votes of

the Members at a meeting at which at least majority of the votes of the Members of the Association is present or represented.

Section 3.05 Change in Basis and Maximum of Annual Assessments. For all Annual Assessments accruing after January 1, 2022, the maximum Annual Assessment may be adjusted by majority vote of the Board of Directors but shall not be increased by more than ten percent above that of the previous year without a vote of the membership. Any increase in the maximum annual assessment of more than ten percent above that of the previous year shall require approval of two-thirds vote of the Members provided that any such assessment shall have the assent of two-thirds of the votes of the Members at a meeting at which at least majority of the votes of the Members of the Association is present or represented.

Section 3.06 Date of Commencement of Annual Assessments. The Annual Assessments provided for herein shall commence as to all Lots as of the date established by the Board. The due date of any special assessment under Section 8.04 hereof shall be fixed in the resolution authorizing such assessment.

Section 3.07 Duties of the Board of Directors. In December of each year, the Board of Directors of the Association shall fix the amount of the Annual Assessment against each Lot for the following year. Written notice of the assessment shall thereupon be sent to every Owner subject thereto. The Association shall upon demand at any time furnish to any Owner liable for said assessment, a certificate in writing signed by an officer or authorized representative of the Association, setting forth whether said assessment has been paid or the balance due. Such certificate, when signed by an authorized officer or agent of the Association, shall be conclusive evidence of payment of any assessment herein stated to have been paid. The Association may charge a reasonable fee for issuing such a certificate.

Section 3.08 Capital Contribution Assessment. In addition to the Annual Assessments provided for in Section 3.03 and the Special Assessments provided for in Section 3.04, there is hereby created an assessment in the amount of \$500.00, imposed uniformly against each Lot (referred to in these Restrictions as an "Capital Contribution assessment "). The Capital Contribution Assessment is a one-time charge, payable immediately after each Lot is sold, transferred or conveyed by the Declarant, to be paid at closing by the purchaser of each such Lot. The Capital Contribution Assessment is intended to serve as mechanism to provide the Association with an initial operating fund to assist the Association in meeting its obligations after development of the Properties and is not intended to offset or pay any of the initial expenses of the development of the Subdivision or reimburse the Declarant. Once a Lot has been sold, transferred or conveyed by the Declarant or by a Builder and the Capital Contribution Assessment has been paid by the purchaser, there shall be no subsequent obligation for any Owner to pay such assessment on that Lot, even if a Lot is re-acquired by the Declarant and later resold, it being Declarant's intention that each Lot, shall be subject to a single, one-time Capital Contribution Assessment.

Section 3.09 Effect of Non-Payment of Assessments. If any assessment or other sum due the Association hereunder is not paid on the date when due, then such assessment or amount shall become delinquent and shall, together with such interest thereon and cost of collection thereof provided herein, thereupon becoming a continuing lien on the property which shall bind such

property in the hands of the then-Owner, his heirs, devisees, personal representatives and assigns. If the assessment is not paid within fifteen days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent per annum, or the highest allowed by law, whichever is less, and the Association may bring an action at law against the Owner to pay the same or to foreclose the Association's lien against the property, and there shall be added to the amount of such assessment all reasonable expenses of collection including the costs of preparing and filing the complaint, reasonable attorney's fees and costs of suit. Each Owner, by his 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 the aforesaid lien by all methods available for the enforcement of such liens, including but not limited to a power of sale. No Owner shall be freed of liability for any assessments provided for herein by virtue of non-use of Common Areas, or non-existence of Common Area. In addition to the foregoing charges for delinquent accounts, each Owner shall be obligated to pay to the Association all costs of collection incurred by the Association and such reasonable attorney's fees, legal expenses, late charges and collection charges as the Board of Directors may establish or agree to, all of which costs and charges shall also be subject to the liens of the Association.

Section 3.10 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereinafter placed upon the Lots subject to assessment, provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the sale or transfer of such Lot pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such Lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment. Any other sale or transfer of a Lot shall not affect the Association's lien for assessments.

Section 3.11 Exempt Property. Lots owned by Declarant and all Common Areas are exempt from all assessments.

ARTICLE IV EASEMENT, ROAD USE AND MAINTENANCE

Section 4.01 Utilities. Declarant reserves the non-exclusive right to use the utility easements and right-of-ways shown on the Plat or that have been or hereafter may be created by separate instrument recorded in the Official Public Records of Real Property of Edwards County, Texas, for the purpose of constructing, maintaining and repairing a system or systems of water, electric lighting, electric power, gas, cable television, and telephone line or lines, storm surface or underground drainage, cable television and any other utility the Declarant sees fit to install in, across and/or under the Property. All utility easements in the Subdivision may be used for the construction of drainage swales in order to provide for improved surface drainage of the Property. Should any utility company furnishing a service covered by the general easements herein provided request a specific easement by separate recordable document, Declarant, without the joinder of any other Owner, shall have the right to grant such easement on said Property without conflicting with the terms hereof. Any utility company serving the Subdivision shall have the right to enter upon any utility easement for the purpose of installation, repair and maintenance of their respective

facilities. Nothing contained herein shall impose any obligation on Declarant to contract to provide or maintain any utilities. All easements for utilities and drainage shall be kept clear of improvements or structures of any kind and no trees, shrubs, berms or other obstructions may be placed upon such easements in such a manner as would in any way limit the intended use of the easements. In this regard, neither Declarant, the Association, nor any utility company or drainage authority, or their assigns, agents, employees, or servants using said easements, shall be liable for any damage done to shrubbery, trees, flowers, or other property or improvement, which is located within the area covered by said easements.

Section 4.02 Title Subject to Easements. It is expressly agreed and understood that the title conveyed by Declarant to any of the Lots shall be subject to any easement affecting same for roadways or drainage, water system, electric lighting, electric power, gas, cable television, or telephone purposes and other easements previously granted affecting the Lots. The Owners of the respective Lots shall not be deemed to own pipes, wires, conduits or other service lines running through their Lots which are utilized for or service other Lots, but each Owner shall have an easement in and to the aforesaid facilities as shall be necessary for the use, maintenance and enjoyment of his Lot.

Section 4.03 Utility Easement Protection. No building or structure shall be located over, under, upon or across any portion of any utility easement. The Owner of each Lot shall have the right to construct, keep and maintain concrete drives, fences, and similar improvements across any utility easement, and shall be entitled to cross such easements at all times for purposes of gaining access to and from such Lots, provided, however, any concrete drive, fence or similar Improvement placed upon such utility easement by the Owner shall be constructed, maintained and used at Owner's risk and, as such, the Owner of each tract subject to said utility easements shall be responsible for (i) obtaining prior approval, if required, from each easement holder, (ii) any and all repairs to the concrete drives, fences and similar Improvements which cross or are located upon such utility easements, and (iii) repairing any damage to said Improvements caused by a utility district or any public utility in the course of installing, operating, maintaining, repairing, or removing its facilities located within the utility easements. In the event that a single Owner shall own two or more adjacent Lots used as a single building site, then the utility easement along the interior and common Lot lines shall be considered vacated so long as no utilities have been previously installed therein. However, in the event that one such Lot shall thereafter be conveyed to any third party, the interior Utility easements along such interior and common Lot line shall again burden both such Lots.

Section 4.04 General Drainage Easements. The Plat generally dedicates drainage easements centered on all natural runoff channels, creeks, or swales, in addition to those drainage easements specifically shown and dedicated on the Plat. Declarant, its successors and assigns, reserves the right, but not the obligation, to more specifically identify these natural runoff channels, creeks, and swales to the extent that such identification is necessary or convenient for a Lot Owner. Should a Lot Owner request such identification and Declarant, in its sole discretion, employs an engineer or surveyor to assist in the identification process, the Lot Owner shall prepay the fees and costs for such expert assistance. The written identification of such natural runoff channels, creeks, or swales may be reduced to be written notice filed in the Official Public Records of Real Property of Edwards County, Texas, which shall supersede and replace, for said Lot, the general Plat

reference to same. Any drainage pattern and/or earthen tank embankment established on the property cannot be altered or blocked in any manner whatsoever.

Section 4.05 Easements for Inspection and Enforcement. The Association, the Board and the ACC are each hereby granted easements on, over and to each Lot for the purposes of inspecting for compliance with this Declaration and any rules, regulation or guidelines adopted pursuant to it, and bringing each Lot into compliance; provided, however, that no breach of the peace shall be committed by the exercise of such rights. No trespass shall be found to have been committed by the lawful exercise of such rights. In the event any person shall obstruct, interfere with or impede exercise of such easement rights, they shall be subject to an injunction to cease and desist from such conduct.

Section 4.06 Annexation of Additional Property and Withdrawal. Declarant hereby reserves the right to subject additional land to these Restrictions and to add then-current and future owners of said land as Members to the Association, by filing for record in the Official Public Records of Real Property of Hidalgo County, Texas, an annexation declaration subjecting such land to these Restrictions and the jurisdiction of the Association. If annexation of additional land occurs, then the real property so annexed will form a part of the Properties, as defined above, and shall be subject to the Restrictions herein; provided, however, that Declarant may alter, modify, amend, repeal or revise these Restrictions, as applied to the annexed property, to the extent necessary or convenient, in Declarant's sole discretion. Any Owner of any Lot annexed to the Property and the Association shall have rights of use and enjoyment of the Common Areas and Common Facilities co-extensive with the rights of Owners of Lots within the Property. The Declarant expressly retains the right to (A) acquire and subdivide adjacent properties and connect the Subdivision road(s) to same in order to provide ingress and egress thereto in establishing continuing development of such future development, and (B) withdraw land from the Property. This shall not be changed without the consent of the Declarant

Section 4.07 Easements to Serve Additional Land. The Declarant hereby reserves for itself and its duly authorized agents, representatives and employees, successors, assigns, licensees and mortgagees, an easement over the roadways within the Property and any other roadways or access easements and Common Areas for the purposes of enjoyment, use, access, and development of the Additional Land, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of the roads, for the posting of signs and for connecting and installing utilities servicing the Additional Land. Declarant reserves the right to convey this non-exclusive easement to any current or successive owner or owners of any part of the Additional Land.

Section 4.08 Third Party Easements. Declarant reserves the right to grant access easements over and across the road ways to third parties who are not Owners within the Property. Access easements have been granted to owners of adjacent land.

Section 4.09 Common Area Easements. Each Owner is granted a non-exclusive easement to use the Common Area subject to the right of the Board of Directors to impose reasonable rules and regulations governing the use and occupancy of the Common Area.

Section 4.10 Road Maintenance Committee, The Road Maintenance Committee shall be composed of a maximum of three (3) all of whom shall designated by Declarant. A majority of votes of the members of shall prevail. In the event of death or resignation of a committee member, the President, with approval of the Board of Directors shall appoint a successor member. No committee member shall receive compensation for his duties, this committee shall supervise the maintenance of the main road to keep it passable and in good condition at all times. At such time as Declarant transfers ownership of the last Lot they own in the Subdivision the power to appoint and replace the Road Maintenance Committee.

ARTICLE V USE RESTRICTIONS

Section 5.01 Each portion of the Properties shall be used for residential, recreational, ranching and agricultural purposes only, and shall not be used for any other mercantile or commercial purpose. Agricultural purposes for the purpose of this instrument shall mean and include running livestock or exotic animals, hunting, trapping and taking of all wild animals and wild birds.

Section 5.02 Mobile homes, motor homes, camping trailers and campers may be used as residences in the Subdivision, provided that all such objects shall be screened from view from all roads.

Section 5.03 No permanent structure (home, barn, deer blinds, etc.) other than fencing shall be placed on the Properties less than 250 feet from the main roadway easement, and 200 feet from the side or rear property line.

Section 5.04 No abandoned automobiles or other abandoned vehicles shall be left all the Properties nor shall any portion of the Properties be maintained as a dumping ground for rubbish, trash, garbage or other waste. All trash and waste must be hauled off, burned or buried out of view from the main roadway, or adjoining land.

Section 5.05 No offensive, noxious, profane or unlawful use shall be made of the Properties.

Section 5.06 Owners may subdivide their Lots into no more than two Lots, provided that so long as no resulting subdivide shall be allowed to reduce the size of any Lot to less than thirty-five acres. Any subdivision of a Lot shall require that the Owner has a re-plat approved by Edwards County.

Section 5.07 The Properties 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. All equipment for the storage and disposal for such materials shall be kept in a clean and sanitary condition, and out of view from the main roadway and neighbor.

Section 5.08 Hunting shall be permitted on Owner's individual Properties only. No hunting is allowed from the main road.

Section 5.09 Individual water and sewer systems shall be located, constructed and equipped in compliance with Texas State Health Department requirements and rules and regulations of Edwards County and any other applicable governmental laws.

Section 5.10 All water wells shall be located a minimum of 150 feet from any property line and shall adhere to the Texas Department of Health ' stands for minimum spacing between private water wells and private subsurface sewage disposal systems.

Section 5.11 All individual waste disposal systems installed on the property must meet the requirements of Texas State Health Department and the Upper Guadalupe River Authority.

ARTICLE VI ENFORCEMENT

In addition to the remedies for enforcement provided for elsewhere in this Declaration or by law, the violation or attempted violation of the provisions of this Declaration, or any amendment hereto, or of any guidelines, rules, or regulations herein referenced or permitted, by any Owner, his family, guests, lessees, invitees, or licensees shall authorize the Association [in the case of all of the following remedies] or any Owner [in the case of the remedies provided in (c) below], to avail itself of any one or more of the following remedies plus attorney's fees incurred by the Association with respect to the exercise of such remedy:

(a) The right of the Association to enter the Lot to cure or abate such violation through self-help and to charge the expense thereof, if any, to such Owner; and/or,

(b) The right to seek injunctive or any other relief provided or allowed by law against such violation and to recover from such Owner all its expenses and costs in connection therewith, including, but not limited to attorney's fees and court costs;

The foregoing remedies are cumulative. However, before the Association may invoke the remedies as set forth above, it shall give written notice of such alleged violation to Owner, and shall afford the Owner an opportunity to request a hearing. If no hearing is requested, or if requested, after the hearing, a violation is found to exist, the Association's right to proceed with the special charge and/or suspension of privileges shall be absolute. Each day a violation continues after notice thereof has been given Owner shall be deemed a continuing violation subject to continuing enforcements. Failure of the Association or of any Owner to take any action upon any violation shall not be deemed a waiver of any right to take enforcement action thereafter or upon a subsequent violation. No Owner shall have the right to compel or require the institution of enforcement proceedings or the filing of suit by the Association.

All assessments, charges and costs incurred and/or imposed by the Association and unpaid when due shall bear interest at the rate of eighteen percent per annum, or the highest amount allowed by law, whichever is less, from the date due until paid, said interest to be compounded monthly. All such sums shall be secured by a lien against the Lot of the Owner and/or Lessee responsible for such violation, which shall be equivalent with and subject to the lien for assessments set forth above.

ARTICLE VII DECLARANT'S RESERVED RIGHTS.

Section 8.01 Development Period. Declarant hereby reserves for itself the Development Period, with each and every right, reservation, privilege, and exception available or permissible under applicable law if and to the full extent that such right, reservation, privilege, or exception is beneficial to or protective of Declarant or Builders. The reserved rights of Declarant shall include, but are not limited to, the unilateral right to appoint, remove and replace all directors and officers

of the Association; adopt and amend Governing Documents; adopt Association budgets; change the rate and time of payment of Assessments; levy Special Assessments; and, receive applications for review and to approve all solar energy devices installed in the Subdivision, subject to Chapters 202 and 209, Texas Property Code.

The Development Period runs continuously from the date this Declaration is recorded until January 1, 2050, or whenever Declarant shall have sold their last Lot in the Property, whichever is earlier. In no event may the Development Period last longer than fifteen years after the date on which this Declaration is publicly recorded, subject to the right of Declarant to unilaterally amend this Section for any purpose, including to increase or decrease the maximum length of the Development Period. No act, statement, or omission by the Association may effect termination of the Development Period earlier than the term stated in this Section. Declarant, however, may terminate the Development Period at any earlier time by publicly recording a notice of termination. The Development Period is for a term of years or until the stated status is attained, and does not require that Declarant own a Lot or any other land in the Subdivision of Annexation Area.

Section 8.02 Development Period Rights. Declarant hereby reserves for itself the Development Period, with each and every right, reservation, privilege, and exception available or permissible under applicable law for developers of residential subdivisions, if and to the full extent that such right, reservation, privilege, or exception is beneficial to or protective of Declarant or Builders. The reserved rights of Declarant shall include, but are not limited to, the unilateral right to adopt and amend Governing Documents; adopt Association budgets; change the rate and time of payment of Assessments; levy Special Assessments; and, receive applications for review and to approve all solar energy devices installed in the Subdivision.

Section 8.03 Other Rights. Declarant hereby reserves for itself each and every right, reservation, privilege, and exception available or permissible under applicable law for developers of residential subdivisions, if and to the full extent that such right, privilege, or exception is beneficial to or protective of Declarant or Builders. If the benefit or protection of applicable law is predicated on an express provision being in this Declaration or other Governing Document, such provision is hereby incorporated by reference unless Declarant executes an instrument to disavow such benefit or protection. Further, Declarant may from time to time assign to the Association, on a permanent or temporary basis, one or more of the rights, powers, obligations and duties of the Declarant under this Declaration.

Section 8.04 Effect of Reserved Rights. This Declaration creates a number of periods of time for the exercise by the Declarant of certain reserved rights, including, but not limited to, the Development Period. Each reservation period is for a term of years or until a stated status is attended, and does not require that Declarant own a Lot or any other land in the Subdivision of the Annexation Area. No act, statement, or omission by the Association, a Builder, or any other party may effect a change or termination of any Development Period. Declarant, however, may unilaterally change any Development Period by amending this Declaration. To document the end of a Development Period, Declarant may (but is not required to) execute and publicly record a notice of termination of the period.

ARTICLE VIII

GENERAL PROVISIONS

Section 9.01 Covenants Running with The Land. All of the restrictions, covenants, and easements, herein provided for and adopted apply to each and every Lot and shall be covenants running with the land. The Owner of any Lot in the Subdivision, or any Unit thereof, shall have the right to enforce these Restrictions as set forth herein. Nothing herein shall be construed as compelling the Declarant or the Association to enforce any of these provisions, nor shall the failure of the Declarant or the Association to enforce any of these provisions be deemed to be a waiver of the right of enforcement or prohibition. Neither the Declarant nor the Association shall have liability or responsibility at law or in equity on account of enforcement of, or on account of the failure to enforce these restrictions.

Section 9.02 Declarant's Exemption. The Declarant shall not be subject to these Restrictions, and no person, entity or Owner shall be entitled to maintain a suit at law or in equity against the Declarant for any alleged violations of these Restrictions by Declarant. The Declarant further expressly reserves the right to grant any waiver or variance from any of these Restrictions, and unilaterally amend same, however, Declarant shall not have the authority to grant any waiver or amendment which has the effect of removing the limitation on the use of the property as single family residential dwellings.

Section 9.03 Partial Liability. Invalidation of any covenant or restriction shall not affect, in any way, the validity of all other covenants and restrictions, all of which shall remain in full force and effect. Acquiescence in any violation shall not be deemed a waiver of the right to enforce against the violator or others the conditions so violated or any other conditions.

Section 9.04 Term. The covenants, conditions, and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of, and be enforceable by the Owner of any Lot, and their respective legal representatives, heirs, successors and assigns, and, unless amended as provided herein, shall be effective for a term of twenty years from this date, after which time said covenants, conditions, and restrictions shall be automatically extended for successive periods of ten years.

Section 9.05 Amendment. Subject to Section 9.02 paragraph above, the covenants, conditions and restrictions may be amended upon the express consent of not less than two-thirds of the votes of the Members. No amendment shall be effective until there shall be recorded in the Official Public Records of Real Property of Edwards County, Texas, a certification signed by the President and Secretary of the Association setting forth such amendment and acknowledging that same has been approved as required by the terms of this Section, nor until the required approval of any governmental regulatory body shall have been obtained.

Section 9.06 Interpretation. If this Declaration or any word, clause, sentence, paragraph, or other part thereof shall be susceptible of more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration shall govern. If any punctuation, word, clause, sentence, or provision necessary to give meaning, validity, or effect to any other word, clause, sentence, or provision appearing in this Declaration shall have been omitted, then it is hereby declared that such omission was

