

CYPRESS CREEK SECTION TWO  
DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

THE STATE OF TEXAS       §  
                                  §  
COUNTY OF WILLIAMSON   §

WHEREAS CYPRESS CREEK VENTURE, a Texas joint venture partnership, hereinafter called the Declarant, is the owner of that real property known as Cypress Creek Section Two (2), a subdivision in Williamson County, Texas according to the map or plat thereof recorded in Cabinet K, Slides 303-305, Plat Records of Williamson County, Texas (the "Subdivision"); and

WHEREAS, all of the Subdivision, except Lot 28, Block C thereof (the "Property"), is intended to be developed for single family residential purposes; and

WHEREAS, Declarant desires to create upon the Property a residential community and to carry out a uniform plan for the improvement and development of the Property for the benefit of the present and future owners of the Property; and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of common areas and, to that end, desires to subject the Property to the covenants, conditions and restrictions hereinafter set forth, each of which is for the benefit of the Property and each owner thereof; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create a homeowners association, to which association the powers of maintaining, administering and enforcing these covenants and restrictions, and collecting and disbursing the assessments and charges herein created, shall be delegated and assigned;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that it is hereby declared (i) that all of the Property shall be held, sold, conveyed and occupied subject to the following covenants, conditions and restrictions, which are for the purpose of protecting the value and desirability of, and which shall run with the Property and shall be binding on all parties having any right, title, or interest in or to the Property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof; and (ii) that each contract or deed which may hereafter be executed with regard to the Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to the following covenants, conditions and restrictions regardless of whether or not the same are set out or referred to in said contract or deed.

ARTICLE I  
DEFINITIONS

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

1.01 Architectural Committee. "Architectural Committee" shall mean the committee created pursuant to this Declaration to review and approve plans for the construction of Improvements upon the Property.

1.02 Architectural Committee Rules. "Architectural Committee Rules" shall mean the rules and regulations adopted by the Architectural Committee, as the same may be amended from time to time.

1.03 Articles. "Articles" shall mean the Articles of Incorporation of Cypress Creek Homeowners Association, Inc., which shall be filed in the office of the Secretary of State of the State of Texas, and as amended from time to time.

1.04 Assessment. "Assessment" or "Assessments" shall mean such assessments as may be levied by the Association under the terms and provisions of this Declaration and shall include both regular and special assessments.

1.05 Association. "Association" shall mean Cypress Creek Homeowners Association, Inc., a Texas non-profit corporation.

1.06 Association Property. "Association Property" shall mean all real or personal property now or hereafter owned by or leased to the Association.

1.07 Board. "Board" shall mean the Board of Directors of the Association.

1.08 Bylaws. "Bylaws" shall mean the Bylaws of the Association which may be adopted by the Board, and as amended from time to time.

1.09 Common Area and Facilities. "Common Area and Facilities" shall mean lots designated by Declarant and conveyed to the Association for the common benefit of the owners, the fencing to be constructed by Declarant along El Salido Parkway, within the Subdivision, the landscaping and irrigation system to be installed by Declarant adjacent to Karoline Lane, and any drainage and/or filtration facilities conveyed to the Association for operation and maintenance.

1.10 Commercial Lot. "Commercial Lot" shall mean Lot 28, Block C of the Subdivision, which Commercial Lot is expressly excluded from this Declaration.

1.11 Declarant. "Declarant" shall mean Cypress Creek Venture, a Texas joint venture partnership, its duly authorized representatives or their respective successors or assigns; provided that any assignment of the rights of Cypress Creek Venture as Declarant must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder.

1.12 Declaration. "Declaration" shall mean this instrument as it may be amended and supplemented from time to time.

1.13 Improvement. "Improvement" shall mean every structure and all appurtenances thereto of every type and kind, including but not limited to buildings, outbuildings, storage sheds, patios, tennis courts, swimming pools, garages, storage buildings, fences, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

1.14 Lot. "Lot" or "Lots" shall mean any parcel or parcels of land within the Property shown as a subdivided lot on the Plat of the Subdivision, together with all Improvements located thereon, save and except the Commercial Lot.

1.15 Member. "Member" shall mean any person or entity holding membership rights in the Association.

1.16 Mortgage. "Mortgage" shall mean any lien covering any portion of the Property given to secure the payment of a debt.

1.17 Mortgagee. "Mortgagee" shall mean the holder of any Mortgage.

1.18 Owner. "Owner" shall mean a person or entity including Declarant, holding a fee simple interest in any portion of the Property, but shall not mean a Mortgagee.

1.19 Person. "Person" shall mean any individual or entity having the legal right to hold title to real property.

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

1.21 Plat. "Plat" shall mean the subdivision plat of Cypress Creek Section Two (2) of record in the Plat Records of Williamson County, Texas, as the same may be amended from time to time.

1.22 Property. "Property" shall mean and refer to Cypress Creek Section Two (2), save and except the Commercial Lot, together with such other real property as may hereafter be made subject to the terms of this Declaration.

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

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

1.25 Subdivision. "Subdivision" shall mean Cypress Creek Section Two (2), a subdivision in Williamson County, Texas, according to the map or plat of record in the Plat Records of Williamson County, Texas.

1.26 Supplemental Declaration. "Supplemental Declaration" shall mean any declaration of covenants, conditions and restrictions recorded by Declarant after the date of this Declaration in order to add to the Property; to subject any portion of the Property to further restrictions, covenants or conditions, or to withdraw land from the Property.

## ARTICLE II GENERAL RESTRICTIONS

All of the Property shall be owned, held, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions. Anything herein to the contrary notwithstanding, the provisions of this Declaration shall not be applicable to the Commercial Lot.

2.01 Antennae; Satellite Dishes. No exterior radio, television antenna or aerial or satellite dish shall be erected or maintained within the Property without the prior written approval of the Architectural Committee.

2.02 Insurance Rates. Nothing shall be done or kept on the Property which would increase the rate of insurance or cause the cancellation of insurance on any Lot or any of the Improvements located thereon without the prior written approval of the Board.

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

2.04 Signs. No sign of any kind shall be displayed to the public view on the Property without the prior written approval of the Architectural Committee, except for signs which are part of Declarant's overall marketing plan for the Property. The Architectural Committee may permit signs of any type advertising a portion of the Property for sale or lease or it may set standards for the same.

2.05 Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property and no odors shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property or to its occupants. Refuse, garbage and trash shall be kept at all times in covered containers and such containers shall be kept within enclosed structures or appropriately screened from view.

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

2.07 Construction of Improvements. No Improvements shall hereafter be constructed upon any of the Property without the prior written approval of the Architectural Committee.

2.08 Repair of Buildings. All Improvements upon any of the Property shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner thereof.

2.09 Alteration or Removal of Improvements. Any construction, other than normal maintenance, which in any way alters the exterior appearance of any Improvement, or the removal of any Improvement shall be performed only with the prior written approval of the Architectural Committee.

2.10 Roofing Materials. No reflective roofing materials shall be permitted on any Improvement.

2.11 Driveway. The Architectural Committee shall have the right to impose limitations on driveway design, including materials, aprons, location and point of contact with dedicated roads, streets or private driveways in the Subdivision.

2.12 Underground Utility Lines. No utility lines, including, but not limited to, wires or other devices for the communication or transmission of telephone or electric current or power, cable television or any other type of line or wire shall be erected, placed or maintained anywhere in or upon any portion of the Property unless the same shall be contained in conduit or cables

installed and maintained underground or concealed in, under or on buildings or other Improvements as approved in writing by the Architectural Committee; provided, however, that no provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or other Improvements which have been previously approved in writing by the Architectural Committee. The installation method, including, but not limited to, location, type of installation equipment, trenching method and other aspects of installation, for both temporary and permanent utilities shall be subject to review and approval by the Architectural Committee.

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

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

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

2.16 Mining and Drilling. No portion of the Property shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth.

2.17 Unightly Articles; Vehicles. No article deemed to be unsightly by the Architectural Committee shall be permitted to remain on any Lot so as to be visible from adjoining property or public or private thoroughfares. Without limiting the generality of the foregoing, trailers, graders, trucks other than pickups, boats, tractors, campers, wagons, buses, motorcycles, motor scooters, and garden maintenance equipment shall be kept at all times, except when in actual use, in enclosed structures or screened from view and no repair or maintenance work shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in enclosed garages or other structures. Each single family residential structure constructed within the Property shall have sufficient garage space, as approved by the Architectural Committee, to house all vehicles to be kept on the Lot. Lot Owners shall not keep more than two (2) automobiles in such manner as to be visible from any other portion of the Property for any period in excess of seventy-two (72) hours. No automobiles or other vehicles may be parked overnight for more than two (2) consecutive nights on any roadway within the Property. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials or scrap or refuse of trash shall be kept, stored or allowed to accumulate on any portion of the Property except within enclosed structures or appropriately screened from view.

2.18 Mobile Homes, Travel Trailers and Recreational Vehicles. No mobile homes shall be parked or placed on any Lot at any time, and no travel trailers, recreational vehicles or similar vehicles shall be parked on any portion of the Property so as to be visible from adjoining property or public or private thoroughfares for more than forty-eight (48) hours.

2.19 Fences. The construction of fences shall be restricted, and no fence shall be constructed on the Property without the prior written consent of the Architectural Committee. The Architectural Committee may, in its discretion, prohibit the construction of any proposed fence, specify the height or location of the proposed fence, specify the materials of which any proposed fence must be constructed, or require that any proposed fence be screened by vegetation or otherwise so as not to be visible from other portions of the Property.

2.20 Animals - Household Pets. No animals, including pigs, hogs, swine, poultry, fowl, wild animals, horses, cattle, sheep, goats or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept or maintained on the Property. No more than three (3) domestic pets may be kept on any Lot. No domestic pet shall be allowed to make an unreasonable amount of noise, or to become a nuisance, and no domestic pets will be allowed on the Property other than on the Lot of its Owner unless confined to a leash. No animal may be stabled, maintained, kept, cared for or boarded for hire or remuneration on the Property and no kennels or breeding operations will be allowed. No domestic pet shall be allowed to run at large and all domestic pets shall be kept within enclosed areas which must be clean, sanitary and reasonably free of refuse, insects and waste at all times. Such enclosed area shall be constructed in accordance with plans approved by the Architectural Committee, shall be of reasonable design and construction to adequately contain such animals in accordance with the provisions hereof, and shall be screened so as not to be visible from any other portion of the Property.

2.21 Lawns and Plantings. The front yard of each Lot and the front and the side yard adjacent to the street of each corner Lot shall be fully sodded prior to the occupancy of the residence located on such Lot. Each Owner shall keep all shrubs, trees, grass and plantings of every kind on such Owner's Lot cultivated, pruned, free of trash, and other unsightly material. In the event any Owner fails to do so, Declarant, the Association or the Architectural Committee shall have the right at any reasonable time to enter upon any Lot to replace, maintain and cultivate shrubs, trees, grass or other plantings located thereon and to charge the cost thereof to the Owner of the Lot as provided in Section 5.04(E) hereof.

2.22 Construction Activities. Notwithstanding any provision herein to the contrary, this Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner (including Declarant) upon any Lot within the Property. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. In the event of any dispute regarding such matters, a temporary waiver of the applicable provision may be granted by the Architectural Committee, provided that such waiver shall be only for the reasonable period of such construction.

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

2.24 Liability of Owners for Damage to Common Area and Facilities. No Owner shall in any way alter, modify, add to or otherwise perform any work upon the Common Area and Facilities without the prior written approval of the Board of Directors of the Association. Each Owner shall be liable to the Association for any and all damages to (i) the Common Area and Facilities, or (ii) to any Improvements constructed on any Lot, the maintenance of which has been assumed by the Association, which damage is caused by the neglect, misuse or negligence of such Owner or such Owner's family, or by any tenant or other occupant of such Owner's Lot, or any guest or invitee of such Owner. The full cost of all repairs of such damage shall be an Assessment against such Owner's Lot, secured by a lien against such Owner's Lot and collectible in the same manner as provided in Section 7.06 hereof, including but not limited to foreclosure of such lien.

2.25 No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this Article II or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms or provisions. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants, terms or provisions shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

### ARTICLE III RESIDENTIAL RESTRICTIONS

3.01 Residential Use. All Lots shall be improved and used solely for single family residential use inclusive of a garage, fencing and such other Improvements as are necessary or customarily incident to residential use, or for greenbelt, open space or other use approved by Declarant.

3.02 Building Height. No Improvement shall exceed two (2) stories in height and no Improvement greater than thirty (30) feet in height may be constructed on any Lot without the prior written approval of the Architectural Committee. For purposes of this paragraph, height shall be measured from the poured foundation at its lowest point on the Lot to the ridge line of the roof of the proposed Improvement.

3.03 Dwelling Size. All single-story dwellings shall contain not less than 1400 square feet of enclosed living space, exclusive of porches (open or covered), decks, garages and carports. All two-story dwellings shall contain not less than 1600 square feet of enclosed living space, exclusive of porches (open or covered), decks, garages and carports.

3.04 Building Materials. All building materials shall be approved by the Architectural Committee, and only new building materials (except for used brick) shall be used in constructing any Improvements. Exposed metal roof decks which reflect light in a glaring manner such as galvanized steel sheets are specifically prohibited. Other roofing materials may be used with the prior written consent of the Architectural Committee, which may specify

a minimum quality or grade of materials. All projections from a dwelling or other structure, including but not limited to chimney flues, vents, gutters, downspouts, utility boxes, porches, railings and exterior stairways shall match the color of the surface from which they project, or shall be of a color approved by the Architectural Committee. No highly reflective finishes (other than glass, which may not be mirrored) shall be used on exterior surfaces (other than surfaces of hardware fixtures), including without limitation the exterior surfaces of any Improvements.

The masonry requirements for single- and two-story dwellings shall be as follows:

- (a) One-Story Dwellings: The exposed surface of the front and side exterior walls of all single-family dwellings shall be constructed of 100% masonry, exclusive of roofs, eaves, soffits, windows, gables, and trim work.
- (b) Two-Story Dwellings: The exposed surface of the front and side exterior walls of the first floor of all single-family dwellings shall be constructed of 100% masonry, exclusive of roofs, eaves, soffits, windows, gables, and trim work. The exposed surface of the front and side exterior walls on the second floor of all single-family dwellings which face a public right-of-way shall be constructed of 100% masonry, exclusive of roofs, eaves, soffits, windows, gables, and trim work.

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

3.06 Setback Requirements. No building shall be located or erected nearer to any Lot line bordering a street right of way than is indicated by the building line shown on the Plat of the Subdivision. For purposes of these covenants, eaves, steps and open porches shall not be considered as part of the building; provided, however, that this shall not be construed to allow any such structure to encroach upon another Lot.

3.07 Rentals. Nothing in this Declaration shall prevent the rental of any Lot and the Improvements thereon by the Owner thereof for residential purposes.

#### ARTICLE IV COMMON AREA AND FACILITIES

4.01 Generally. Declarant shall design and construct fencing on both sides of El Salido Parkway within the Subdivision and shall install landscaping and an irrigation system within the median and within the right-of-way on both sides of Karoline Lane. Declarant shall also design and construct all filtration systems for the Property required by any governmental entity with jurisdiction. Such fencing, landscaping, irrigation system and filtration systems shall constitute Common Area and Facilities within the meaning of this Declaration, and shall be conveyed to and shall be maintained by the Association.

4.02 Condemnation. If all or any part of the Common Area and Facilities is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary), the Association shall be entitled to participate in proceedings incident thereto. The expense of participation in such proceedings by the Association shall be a common expense to be paid out of Assessments. The Association is specifically authorized to obtain and to pay for such assistance from attorneys, appraisers,



architects, engineers, expert witnesses and other persons as the Association, in its discretion, deems necessary or advisable to aid it in any matters relating to such proceedings. All damages or awards for any such taking shall be deposited with the Association. The Association, in addition to the general powers set out herein, shall have the sole authority to determine whether to contest or defend any such proceedings, to make any settlement with respect thereto or to convey such property to the condemning authority in lieu of condemnation.

#### ARTICLE V ASSOCIATION

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

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

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

(A) The Owner (including Declarant) of each Lot within the Property shall have one vote for each Lot so owned.

(B) In addition to the votes to which it is entitled by reason of Subparagraph (A) of this Section, for every one vote outstanding in favor of any other person or entity Declarant shall have ten (10) votes until the votes described in Subparagraph (A) of this Section which are owned by persons or entities other than Declarant total, in the aggregate, ninety percent (90%) of the total number of votes. Thereafter Declarant shall have only the votes, if any, to which it is entitled under said Subparagraph (A) of this Section.

(C) The holder of more than one vote may both make a motion and second such motion for any purpose.

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

(A) Rules and Bylaws. To make, establish and promulgate, and in its discretion to amend or repeal and re-enact, such Rules and Association Bylaws, not in conflict with this

Declaration, as it deems proper covering any and all aspects of its functions.

(B) Insurance. To obtain and maintain in effect policies of insurance which, in the opinion of the Board, are reasonably necessary or appropriate to carry out the Association functions, including but not limited to such policies of liability and property damage insurance as the Board in its discretion may deem necessary. Insurance premiums shall be a common expense to be included in the Assessments levied by the Association.

(C) Records. To keep books and records of the Association's affairs.

(D) Assessments. To levy assessments as provided in Article VII below. An assessment is defined as that sum which must be levied in the manner and against the property set forth in Article VII hereof in order to raise the total amount for which the levy in question is being made.

(E) Right of Entry and Enforcement. To enter at any time in an emergency or in a non-emergency, after twenty-four (24) hours written notice, without being liable to any Owner, upon any Lot and into any Improvement thereon for the purpose of enforcing the Restrictions or for the purpose of maintaining or repairing any area, Improvement or other facility to conform to the Restrictions, and the expense incurred by the Association in connection with the entry upon any Lot and the maintenance and repair work conducted thereon shall be a personal obligation of the Owner of the Lot entered upon, shall be a lien upon the Lot entered upon and Improvements thereon, and shall be enforced in the same manner and to the same extent as provided in Article VII hereof for regular and special assessments. The Association shall have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of the Restrictions. The Association is also authorized to settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the Restrictions; provided, however, that the Board shall never be authorized to expend any Association funds for the purpose of bringing suit against Declarant, its successors or assigns.

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

(G) Taxes. To pay all real property taxes and other taxes and assessments levied upon any Common Area or Facilities.

5.05 Maintenance Responsibilities. The Association shall be required to maintain all Common Area and Facilities conveyed to the Association by Declarant for operation and maintenance, as well as all streets and roadways within the Property which have been completed but not accepted by the appropriate governmental entity for maintenance. In addition, the Association shall be authorized to landscape, maintain and repair easements, access easements, rights-of-way, median strips, sidewalks, paths, trails, detention ponds, and other areas of the Property, as appropriate.

5.06 Street Lighting. The Association shall be required to pay for electrical service and for all other costs and expenses necessary to operate and maintain the street lights within the Property, until such time as such obligation is assumed by the appropriate governmental entity.

ARTICLE VI  
ARCHITECTURAL COMMITTEE

6.01 Membership of Architectural Committee. The Architectural Committee shall consist of not more than three (3) voting members ("Voting Members") appointed by Declarant and such additional nonvoting members serving in an advisory capacity ("Advisory Members") as the Architectural Committee deems appropriate. The initial members of the Architectural Committee shall be Rodney L. Madden, Rogers D. Wilson and Edith Underwood.

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

6.03 Advisory Members. The Voting Members may from time to time designate Advisory Members.

6.04 Term. Each member of the Architectural Committee shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein.

6.05 Declarant's Rights of Appointment. Declarant, its successors or assigns, shall have the right to appoint and remove all members of the Architectural Committee. Declarant may at such time as Declarant, in Declarant's sole discretion, deems advisable, delegate this right to the Board by written instrument. Thereafter, the Board shall have the right to appoint and remove all members of the Architectural Committee.

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

6.07 Review of Proposed Construction. Whenever in this Declaration the approval of the Architectural Committee is required, it shall have the right to consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts which, in its sole discretion, are relevant. Except as otherwise specifically provided herein, prior to the commencement of any construction of any Improvement on the Property or any portion thereof, the Plans and Specifications therefor shall be submitted to the Architectural Committee, and construction thereof may not commence unless and until the Architectural Committee has approved such Plans and Specifications in writing. The Architectural Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration, and perform such other duties assigned to it by this Declaration or as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with Plans and Specifications approved by the Architectural Committee. The Architectural Committee may review Plans and Specifications submitted for its review and such other information as it deems proper. Until receipt by the Architectural Committee of any information or document deemed necessary by the Architectural Committee, it may postpone review of any Plans and Specifications submitted for approval. The decision of the Architectural Committee shall be final and binding so long as it is made in good faith. The Architectural Committee shall not be responsible for reviewing any proposed Improvement, nor shall its approval of any Plans or Specifications be deemed approval thereof from the standpoint of structural safety, engineering soundness, or conformance with building or other codes.

6.08 Actions of the Architectural Committee. The Architectural Committee may, by resolution, unanimously adopted in writing, designate one or two of its members or an agent acting on its behalf to take any action or perform any duties for and on behalf of the Architectural Committee. In the absence of such designation, the vote of a majority of all of the members of the Architectural Committee taken without a meeting, shall constitute an act of the Architectural Committee.

6.09 Failure of Architectural Committee to Act. If the Architectural Committee fails to approve or disapprove any Plans or Specifications or to reject them as being inadequate within thirty (30) days of submittal, it shall be conclusively presumed that the Architectural Committee has approved such Plans and Specifications.

6.10 No Waiver of Future Approvals. The approval or consent of the Architectural Committee to any Plans or Specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the Architectural Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans and Specifications, or other matter whatever, subsequently or additionally submitted for approval or consent by the same or a different person.

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

6.12 Nonliability of Architectural Committee Members. Neither the Architectural Committee, nor any member thereof, nor the Board nor any member thereof, shall be liable to the Association or to any Owner or to any other person for any loss, damage or injury arising out of their being in any way connected with the performance of the Architectural Committee's or the Board's respective duties under this Declaration.

6.13 Address. Plans and Specifications shall be submitted to the Architectural Committee in care of Rod Madden, Echelon II, Suite 230, 9430 Research, Austin, Texas 78759 or such other address as may be designated from time to time.

#### ARTICLE VII FUNDS AND ASSESSMENTS

##### 7.01 Assessments.

(A) The Association may from time to time levy Assessments against each Lot whether or not improved. The level of Assessments shall be equal and uniform between all Lots, except that (i) no Assessments hereunder shall be levied against Declarant, and (ii) no Assessments hereunder shall be levied against any Lot purchased by a homebuilder pursuant to a contract with Declarant for construction of a single family residence for a period of six (6) months from the date of closing of the purchase of the Lot by the homebuilder.

(B) Where the obligation to pay an Assessment first arises after the commencement of the year or other period for which the Assessment was levied, the Assessment shall be prorated as of the date when said obligation first arose in proportion to the amount of the Assessment year or other period remaining after said date.

(C) Each unpaid Assessment together with such interest thereon and costs of collection thereof as hereinafter provided, shall be the personal obligation of the Owner of the Lot against which the Assessment fell due, and shall become a lien against each

such Lot and all Improvements thereon. The Association may enforce payment of such Assessments in accordance with the provisions of this Article.

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

7.03 Regular Annual Assessments. Prior to the beginning of each fiscal year, the Board shall estimate the expenses to be incurred by the Association during such year in performing its functions under the Restrictions, including but not limited to the cost of all roadway and Common Area maintenance, the cost of enforcing the Restrictions, and a reasonable provision for contingencies and appropriate replacement reserves, less any expected income and any surplus from the prior year's fund. Assessments sufficient to pay such estimated net expenses shall then be levied as herein provided, and the level of Assessments set by the Board shall be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any individual Assessment, the Association may at any time, and from time to time, levy further Assessments in the same manner as aforesaid. All such regular Assessments shall be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion.

7.04 Special Assessments. In addition to the regular annual Assessments provided for above, the Board may levy special Assessments whenever in the Board's opinion such special Assessments are necessary to enable the Board to carry out the mandatory functions of the Association under the Restrictions. The amount of any special Assessments shall be at the reasonable discretion of the Board.

7.05 Owner's Personal Obligation for Payment of Assessments. The regular and special Assessments provided for herein shall be the personal and individual debt of the Owner of the Lot covered by such Assessments. Except as otherwise provided in section 7.01(A) hereof, no Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any such Assessment, the Owner of the Lot shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from the due date thereof, (or if there is no such highest rate, then at the rate of 2% per month) together with all costs and expenses of collection, including reasonable attorneys' fees.

7.06 Assessment Lien and Foreclosure. All sums assessed in the manner provided in this Article but unpaid, shall, together with interest as provided in Section 7.05 hereof and the cost of collection, including attorney's fees as herein provided, thereupon become a continuing lien and charge on the Lot covered by such Assessment, which shall bind such Lot in the hands of the Owner, and such Owner's heirs, devisees, personal representatives, successors or assigns. The aforesaid lien shall be superior to all other liens and charges against the said Lot, except only for tax liens and all sums unpaid on a first mortgage lien or first deed of trust lien of record, securing in either instance sums borrowed for the improvement of the Lot in question. The Association shall have the power to subordinate the aforesaid Assessment lien to any other lien. Such power shall be entirely discretionary with the Board and such subordination may be signed by an officer of the

Association. To evidence the aforesaid Assessment lien, the Association may prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien and a description of the Lot. Such notice shall be signed by one of the officers of the Association and shall be recorded in the office of the County Clerk of Williamson County, Texas. Such lien for payment of Assessments shall attach with the priority above set forth from the date that such payment becomes delinquent and may be enforced by the foreclosure of the defaulting Owner's Lot by the Association in like manner as a mortgage on real property subsequent to the recording of a notice of Assessment lien as provided above, or the Association may institute suit against the Owner personally obligated to pay the Assessment and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or not judicial, the Owner shall be required to pay the costs, expenses, and reasonable attorney's fees incurred. The Association shall have the power to bid on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the Association shall report to said Mortgagee any unpaid Assessments remaining unpaid for longer than thirty (30) days after the same are due.

#### ARTICLE VIII EASEMENTS

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

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

to trim overhanging trees and shrubs located on portions of the Property abutting such easements.

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

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

#### ARTICLE IX ADDITION OF LAND

It is contemplated that Declarant will develop certain real property now owned or hereafter acquired by Declarant for residential purposes and add such real property to the Property. Declarant may, at any time and from time to time, add additional lands to the Property, and upon the filing of a notice of addition of land as hereinafter described, this Declaration and the covenants, conditions, restrictions and obligations set forth herein shall apply to the added lands, and the rights, privileges, duties and liabilities of the persons subject to this Declaration shall be the same with respect to the added land as with respect to the lands originally covered by this Declaration. In order to add lands to the Property hereunder, Declarant shall be required only to record in the Official Records of Williamson County, Texas, a notice of addition of land (which notice may be contained within any Supplemental Declaration affecting such land) containing the following provisions:

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

#### ARTICLE X MISCELLANEOUS

10.01 Term. This Declaration, including all of the covenants, conditions, and restrictions hereof, shall run until December 31, 2013, unless amended as herein provided. After December 31, 2013, this Declaration, including all such covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by the Owners of at least three-fourths (3/4) of the Lots within the Property then subject to this Declaration and filed in the Official Records of Williamson County, Texas.

10.02 Amendment.

(A) By Declarant. This Declaration may be amended by the Declarant, acting alone, until December 31, 2000, and thereafter for so long as Declarant holds a majority of the votes of the Association. No amendment by Declarant after December 31, 2000, shall be effective until there has been recorded in the Official Records of Williamson County, Texas, an instrument executed and acknowledged by Declarant and setting forth the amendment, and an instrument executed and acknowledged by the President and Secretary of the Board certifying that the Declarant had the requisite number of votes.

(B) By Owners. In addition to the method in Section 10.02(A) this Declaration may be amended by the recording in the Official Records of Williamson County, Texas of an instrument executed and acknowledged by the President and Secretary of the Association, setting forth the amendment and certifying that such amendment has been approved by Owners entitled to cast at least sixty percent (60%) of the number of votes entitled to be cast pursuant to Section 5.03 hereof.

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

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

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

10.06 Assignment of Declarant. Notwithstanding any provision in this Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights and duties under this Declaration to any other person or entity and may permit the participation, in whole or in part, by any other person or entity in any of its privileges, exemptions, rights and duties hereunder. Any such assignment shall be in writing and filed of record in the Official Records of Williamson County, Texas.

10.07 Enforcement and Nonwaiver.

(A) Right of Enforcement. Except as otherwise provided herein, any Owner at his own expense, Declarant, and/or the Board shall have the right to enforce all of the provisions of the Restrictions. Such right of enforcement shall include both damages



for, and injunctive relief against, the breach of any such provision.

(B) Nonwaiver. The failure to enforce any provision of the Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of said restrictions.

(C) Liens. The Association shall have the right, when appropriate in its judgment, to claim or impose a lien upon any Lot or Improvement constructed thereon in order to enforce any right or effect compliance with this Declaration.

10.08 Construction.

(A) Restrictions Severable. The provisions of the Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.

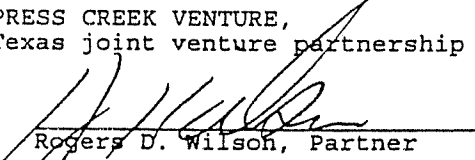
(B) Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

(C) Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise effect that which is set forth in any of the paragraphs, sections or articles hereof.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of this the 13<sup>TH</sup> day of DECEMBER, 1993.

Declarant:

CYPRESS CREEK VENTURE,  
a Texas joint venture partnership

By:   
Rogers D. Wilson, Partner

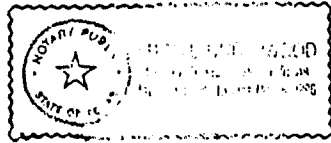
By: R. L. Madden & Associates, Inc.,  
a Texas corporation, Partner

By:   
Rodney L. Madden, President

Address: Echelon II, Suite 230  
9430 Research Blvd.  
Austin, Texas 78759

THE STATE OF TEXAS §  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 10<sup>th</sup> day of December, 1993, by Rogers D. Wilson, Partner of Cypress Creek Venture, a Texas joint venture partnership, on behalf of said partnership.



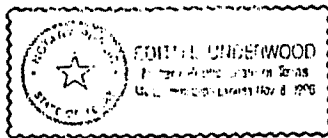
Edith L. Underwood  
Notary Public, State of Texas

Name Printed: \_\_\_\_\_

Commission Expires: \_\_\_\_\_

THE STATE OF TEXAS §  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 10<sup>th</sup> day of December, 1993, by Rodney L. Madden, President of R. L. Madden & Associates, Inc., a Texas corporation, Partner of Cypress Creek Venture, a Texas joint venture partnership, on behalf of said corporation and said partnership.



Edith L. Underwood  
Notary Public, State of Texas

Name Printed: \_\_\_\_\_

Commission Expires: \_\_\_\_\_

## CONSENT OF MORTGAGEE

Franklin Federal Bancorp, as the owner and holder of indebtedness secured by a deed of trust covering the Property, of record in Volume 2797, Pages 823, Official Records of Williamson County, Texas, does hereby join in the execution of this DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for the purpose of evidencing its consent hereto and subordinating all of its liens to this Declaration.

Executed this 14th day of December, 1993.

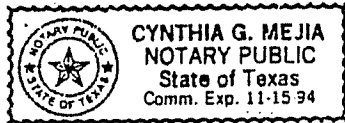
Franklin Federal Bancorp

By: J. S. Norman, III

J. S. Norman, III  
Senior Vice President

The State of Texas  
County of Travis

This instrument was acknowledged before me on this 14th day of December, 1993, by J. S. Norman, III, Senior Vice President of Franklin Federal Bancorp, a Federal Savings Bank, on behalf of Franklin Federal Bancorp.



Cynthia G. Mejia  
Notary Public, State of Texas  
Name Printed: Cynthia G. Mejia  
Commission Expires: 11-15-94

STATE OF TEXAS COUNTY OF WILLIAMSON  
I hereby certify that this instrument was FILED  
on the date and at the time stamped hereon  
by me, and was duly RECORDED in the Volume  
and Page of the named RECORDS of Williamson  
County Texas, as stamped hereon by me, on



DEC 16 1993

Clarence Proffice  
COUNTY CLERK  
WILLIAMSON COUNTY, TEXAS

1993 DEC 16 PM 2:39