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**MASTER DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
COTTON CROSSING SUBDIVISION**

Toga, LLC, Declarant
New Braunfels, Texas

**MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
COTTON CROSSING SUBDIVISION**

THE STATE OF TEXAS §
 §
COUNTY OF COMAL §

KNOW ALL MEN BY THESE PRESENTS:

THIS MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR COTTON CROSSING SUBDIVISION is made by TOGA, LLC, a Delaware limited liability company ("Declarant"), for the purposes herein set forth as follows:

PREAMBLE AND DECLARATION:

WHEREAS, Declarant is owner of the real property commonly known as Cotton Crossing, Comal County, Texas, more particularly described in Exhibit "A" attached hereto (hereinafter called "Subdivision"); and

WHEREAS, Declarant has created a planned mixed-use community for the benefit of the present and future owners of Properties (as defined herein) within the Subdivision, and desires to create and carry out a uniform plan for the improvement, development and sale of the Properties; and

WHEREAS, Declarant desires to ensure the preservation of the values and for the maintenance of the Common Area, and to these ends desires to further subject the Subdivision to the covenants, restrictions, easements, charges, and liens hereinafter set forth, each and all of which is and are for the benefit of the Subdivision and the owners thereof; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values of Properties in the Subdivision to subject and bind the Subdivision to the jurisdiction and assessment of COTTON CROSSING OWNERS ASSOCIATION, INC., with the power and duty to maintain and administer the Common Area of the Subdivision and the power to administer and enforce the covenants and restrictions and to collect and disburse the assessments and charges hereinafter created; and

NOW, THEREFORE, Declarant declares that the Subdivision, and such phases or additions thereto as may hereinafter be made, is and shall be held, transferred, sold, conveyed, occupied, and enjoyed subject to the following covenants, restrictions, easements, charges, and liens hereinafter set forth and shall hereafter be subject to the jurisdiction and assessments of Cotton Crossing Owners Association, Inc.:

ARTICLE I

PURPOSE

Cotton Crossing is encumbered by this Master Declaration of Covenants, Conditions and Restrictions for the following reasons: to ensure the best and highest use and most appropriate development of the Property; to protect owners of the Properties affected hereby against improper use of the Property; to preserve so far as practicable the natural beauty of the Property; to guard against the erection of poorly designed or proportioned structures of improper or unsuitable materials; to ensure compatibility of design of improvements within the Subdivision; to encourage and secure the erection of attractive improvements on each property with appropriate locations; to secure and maintain property setbacks from streets and adequate free space; to provide proper landscaping and the maintenance thereof; and, in general, to provide for development of the highest quality to enhance the value of investment made by Owners of Properties.

ARTICLE II

DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Association" means COTTON CROSSING OWNERS ASSOCIATION, INC., a Texas non-profit corporation, its successors and assigns as provided for herein, which has the power, duty and responsibility of maintaining and administering the Common Area and administering and enforcing the restrictive covenants contained in this Declaration and any Amended or Supplemental Declaration. The Association is a "property owners association" as that term is defined in Texas Property Code §202.001(2).
- (b) "Properties" or "Property" means the properties collectively known as COTTON CROSSING, and additions thereto, as are subject to this Declaration or any Amended or Supplemental Declaration, including each Lot.
- (c) "Lot" means any of the plots of land as shown on the Plat or Plats of the Subdivision, excluding Common Area.
- (d) "Plat" or "Plats" means the map or plat of each phase of development of the Subdivision, filed for record in the Map and Plat Records of Comal County, Texas, and any amendment thereof upon filing of same for record in the Map and Plat Records of Comal County, Texas.
- (e) "Living Unit" means a single family residence and its garage and/or outbuildings situated on a Lot.
- (f) "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any of the Properties, including contract sellers.
- (g) "Declarant" means TOGA, LLC, its successors or assigns who are designated as such in writing by Declarant, and who consent in writing to assume the duties and obligations of the Declarant with respect to the Properties acquired by such successor or assign. No person or entity purchasing one or more

Properties from TOGA, LLC in the ordinary course of business will be considered a "Declarant" simply by the act of purchase.

(h) "Common Area" means all real and personal property leased, owned, or maintained by the Association for the common use and benefit of the Members of the Association. Common Area also includes any entrance monuments, security gates, perimeter walls, drainage facilities and detention ponds, esplanade and right-of-way landscaping, any improvement areas lying within indicated public easements or rights-of-way as deemed appropriate by the Board of Directors of the Association for the preservation, protection and enhancement of the property values and the general health, safety or welfare of the Owners, safety lanes, and other areas not comprised of Lots as shown on the Subdivision Plat.

(i) "Resident" means each Owner who resides within the Properties, a bona fide lessee who has an enforceable lease agreement with an Owner and who resides on the Properties, and any individual who is otherwise lawfully domiciled in a Living Unit.

(j) "Member" means all those Owners who are members of the Association as provided herein.

(k) "Design Guidelines" means the standards, specifications and guidelines applicable to construction, placement, location, alteration, landscaping, maintenance and design of any improvements within the Properties and all amendments and supplements thereof.

(l) "Builder Member" means such builders approved by Declarant for construction within the Subdivision and who own one or more Lots for construction of a residence and resale to others.

(m) "Board of Directors" and "Board" mean the Board of Directors of Cotton Crossing Owners Association, Inc., the election and procedures of which shall be as set forth in the Articles of Incorporation and Bylaws of the Association. The Board of Directors shall be the elected body having its normal meaning under the Texas non-profit corporate law.

(n) "ARC" and "Architectural Review Committee" means the Architectural Review Committee of Cotton Crossing Owners Association, Inc.

(o) "Declaration" means this Master Declaration of Covenants, Conditions and Restrictions for Cotton Crossing Subdivision, and any amendments and supplements hereto made in accordance with the terms hereof.

ARTICLE III

PROPERTY RIGHTS

Every Owner has a right and easement of ingress and egress, use and enjoyment in and to the Common Area which is appurtenant to and which passes with the title to every Property, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any facility now or hereafter situated or constructed or situated upon the Common Area and to impose reasonable limits on the number of guests who may use the facilities;

(b) the right of the Association to suspend an Owner's voting rights and the right to use any facility for any period during which any assessment of the Association against that Owner's Property remains unpaid, and for information by an Owner of the restrictive covenants contained in this Declaration and/or the Association's rules and regulations for the duration of the infraction;

(c) the right of the Association to grant easements in and to the Common Area to any public agency, authority or utility for such purposes as benefits the Properties or portions thereof and Owners;

(d) the right of the Association to borrow money for the purpose of improving the Common Area, or any portion thereof, for acquiring additional Common Area, or for constructing, repairing or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a mortgage conveying all or any portion of the Common Area, provided two-thirds (2/3) of each class of Members present at a meeting called for such purpose approve; provided however, the lien and encumbrance of any such mortgage given by the Association will be subject and subordinate to any and all rights, interests, options, easements, and privileges reserved or established in this Declaration for the benefit of Declarant or Owner, or the holder of any mortgage irrespective of when executed, given by Declarant or any Owner encumbering any Property located within the Subdivision;

(e) the right of the Association to dedicate or transfer all or any portion of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members of the Association. No such dedication or transfer will be effective unless an instrument agreeing to such dedication or transfer has been approved by at least two-thirds (2/3) of the votes that each class of Members of the Association which are present or represented by proxy are entitled to cast at a meeting duly called for such purpose; and

(f) the right of the Association to prescribe rules and regulations as they may be expanded, amended or otherwise modified. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of the Owner's Property may be affected by this provision and that the rules and regulations may change from time to time. The Board has the authority to enforce the rules and regulations by all appropriate means, including but not limited to the imposition of fines, if notice and an opportunity to be heard are given, and a Member found to have violated the rules and regulations will be liable to the Association for all damages and costs, including reasonable attorney's fees.

ARTICLE IV

ARCHITECTURAL REVIEW

In order to protect the overall integrity of the development of the Subdivision as well as the value of improvements of all Owners, a committee of representatives designated as the Architectural Review Committee is hereby established to carry out all duties as noted herein with full authority to approve and disapprove and control all construction, development and improvement activities of any kind (including, without limitation, structures, buildings, hardscape and landscape) within the Subdivision and to insure that all such activities are constructed in a good workman like manner and standard industry trade practices and to insure that all improvements are architecturally, aesthetically and ecologically designed to be compatible with Declarant's conceptual plan for the overall Subdivision and/or is decided by the Architectural Review Committee.

The ARC is responsible for creating and keeping on file an initial Master Plan (herein so called) for the Properties and for the subsequent updating and modification of same from time to time upon the request of Declarant or any Owner. The Master Plan includes the terms, conditions and provisions of the Planned Development District plan approved by the City of New Braunfels, as it may be modified from time to time (the "PDD plan"). Each then most current Master Plan for COTTON CROSSING must depict the categories of the Properties for voting purposes and assessment setting purposes referred to in Articles XII and XIII hereof.

No building, structure, fence, residence, house, garage, accessory building, outbuilding or construction of any kind may be erected, placed, constructed, maintained, modified, redecorated or altered, and no landscaping or hardscape may be installed on any Property in the Subdivision, nor may any clearing or sitework (including specifically the removal of trees or any other vegetation) be commenced until a complete set of plans and specifications has been formally submitted to the ARC with a written request for approval and the ARC's written approval received. Plans and specifications which are submitted must contain and include, but not necessarily be limited to the elevations for any buildings, fence or other structure; a plat or site plan showing easements and the location of any building, fence or other structure (including location of light poles, if applicable); and color samples; and any other plans, specifications or information deemed pertinent by the Architectural Review Committee and/or Declarant.

The Architectural Review Committee will review all plans, specifications and other information which is submitted for compliance with all the requirements of this covenant and for the compatibility of any improvements (including landscaping) therein with the architectural, aesthetic and ecological goals of the Subdivision and Declarant, it being the intent that such goals require that all improvements be compatible with all other improvements in the Subdivision and that they be in harmony with their natural surroundings. The ARC has full right and authority to utilize its sole discretion in approving or disapproving any plans and specifications which are submitted. In the event the ARC fails to approve submitted plans or to request additional information reasonably required within thirty (30) days after submission, the applicant must give the ARC written notice of its failure to respond. Unless the ARC responds within ten (10) days of receipt of such notice, approval will be deemed granted.

The Architectural Review Committee may disapprove the construction or design of any improvements, including the removal of any trees or other natural vegetation, on purely aesthetic grounds where, in its sole judgment, such disapproval is required to protect the continuity of design or value of the Subdivision, or to preserve the serenity and natural beauty of any surroundings. Prior approvals and/or disapprovals of the ARC pertaining to any improvement activities or regarding matters of design or aesthetics are not deemed binding upon the ARC for later requests for approval if the ARC feels that the repetition of such matters will have an adverse effect on the Subdivision. The Architectural Review Committee has the express power to construe and interpret any covenant herein that may be capable of more than one construction.

During reasonable hours, members of the Architectural Review Committee, or any authorized representative of any of them, has the right to enter upon and inspect any Property, and the improvements thereon, for the purpose of ascertaining whether or not the provisions of the Declaration have been or are being complied with, and said persons will not be deemed guilty of trespass by reason of such entry.

The ARC has the authority to employ professional consultants at the expense of the Association to assist it in performance of its duties. The decision of the Architectural Review Committee will be final.

conclusive and binding upon the applicant. The ARC members are not entitled to any compensation for any services rendered pursuant to this covenant.

Members of the ARC are not liable to any person (including Owners and builders) subject to or possessing or claiming any benefits of this Declaration and the covenants contained herein for any damage or injury to property arising out of their acts hereunder.

The number and initial ARC members will be decided by Declarant. So long as there is a Class H membership, in the event of the death or resignation of any member of the ARC, Declarant has full power and authority to appoint a successor committee member or members, chosen in its sole discretion, with like authority. Upon the expiration of the Class H membership, the Board of Directors will appoint the members of the ARC, which will consist of at least three (3) but no more than five (5) members.

The ARC will promulgate and publish Design Guidelines, which is incorporated into this Declaration by reference, a copy of which will be furnished to Owners on request. Such Design Guidelines will supplement this Declaration and may make other and further provisions as to the approval and disapproval of plans and specifications, prohibited materials and other matters relating to the appearance, design and quality of improvements. Such Design Guidelines, may be amended from time to time upon the affirmative vote of two-thirds of the members of the ARC.

ARTICLE V

REGULATION OF USES

Section 5.1 Permitted Uses All of the Properties not within the Common Area may be used solely for the following purposes within the area designated therefor on the Master Plan:

- (a) Agriculture, viticulture.
- (b) Wine production, winery and related ancillary facilities.
- (c) Restaurants, bars, and lounges, including prefabricated diners.
- (d) Retail, convenience and specialty.
- (e) Outdoor market places and exhibit areas, with shed-type buildings.
- (f) Residential, including
 - (1) Single family detached
 - (2) single family attached
 - (3) multifamily apartments
 - (4) retirement homes
 - (5) life-care and convalescent homes
 - (6) Sunday houses
 - (7) cottages
 - (8) bungalows (single family or duplex)
 - (9) mixed occupancy dwelling, including apartments and dwelling units, which may be located above shops and other non-residential uses; and accessory residential structures, including carriage houses, "granny flats," and servant or caretakers quarters above garages.
- (g) Parks and recreation facilities, including commercial recreation such as health spas.
- (h) Office uses.

- (i) Banks (with drive-in by special use permit).
- (j) Civic buildings: Churches, post offices, museum, community centers, etc.
- (k) Conference centers.
- (l) Concert and multifunction assembly halls, theaters.
- (m) Parking garages (limited to two stories), and parking lots.
- (n) Hotels, lodges, bed & breakfasts.
- (o) Day care facilities.
- (p) Transit stations.
- (q) Traditional gas stations, limited to three pumps.
- (r) Clinics.
- (s) Recreational uses, including:
 - (1) parks
 - (2) natural areas
 - (3) walking trails
 - (4) grounds and fields
 - (5) swimming pools
 - (6) tennis courts
 - (7) outdoor game fields

In absence of a specific restriction herein to the contrary, written approval by the ARC of a particular use will be conclusive evidence of compliance with the intent of this Declaration as to the use of a Property (or portion thereof) expressly made the subject of such approval.

Section 5.2 Prohibited Uses. The following operations and uses will not be permitted on any portion of the Properties:

- (a) Public vending machines exposed to the public view.
- (b) Sexually-oriented businesses.
- (c) New or used car lots, automotive service repair and/or storage, except traditional gasoline stations.
- (d) Depot type warehouses and commercial storage.
- (e) Automobile drive-thru commercial establishments.
- (f) Automobile drive-thrus.
- (g) Industrial and heavy manufacturing.
- (h) Junk and scrap yards.
- (i) Mobile homes and manufactured homes.
- (j) Regional retail centers and "Big box" retail stores.
- (k) Any other uses not specifically permitted.

Section 5.3 Other Uses. Uses which are neither specifically prohibited nor specifically authorized by this Declaration may be permitted as to the portions of the Properties except the Common Area (at ground level and above); and, in a specific case, if a proposed use plan describing such proposed use (in such detail as the ARC may reasonably request) is submitted to and approved in writing by the ARC. Approval or disapproval of any such proposed use plan will be based upon the effect of such use on other portions of the Properties and upon the occupants thereof. If the ARC fails either to approve or to disapprove any such proposed use plan within thirty (30) days after such plan has been submitted to it, it will be conclusively presumed that the ARC has disapproved such proposed use.

RESTRICTIVE COVENANTS FOR LOTS DESIGNATED
FOR DETACHED SINGLE FAMILY USE

Section 6.01 Single Family Residential Purpose. All Lots in that part of the Subdivision designated for detached single family residential use must be used for single-family residential purposes only. Guest or servants' quarters appurtenant to single family residential use are permitted. No business may be operated out of a residence, whether for profit or nonprofit. No building or structure intended for or adapted to business or commercial use may be constructed or maintained on any Lot. No hobby may be conducted on any Lot which attracts vehicular or pedestrian traffic to the Lot. No direct sales activities (excluding activities of the Declarant and Builder Members and community activities specifically approved by the Board), garage sales, yard sales, patio sales, flea markets, bazaars, sample sales, promotional parties or similar activities may be conducted on that portion of the Subdivision designated for single family residential use.

During the construction and sales period of the initial Living Units, Declarant or Builder Member may erect and maintain such structures as are customary in connection with such construction and sale of such property, including, but not limited to storage facilities, signs and construction trailer.

All temporary construction and sales structures must be aesthetically compatible with the Subdivision development.

No Living Unit or other structure may remain incomplete for more than six (6) months after construction has commenced.

Living Units may be leased for a period of no less than one (1) year. All leases must be in writing. The lease of a Living Unit will not discharge the Owner from compliance with any of the obligations and duties as an Owner. Owners must provide lessees with a copy of this Declaration, Bylaws and the rules and regulations of the Association. All the provisions of this Declaration, Articles of Incorporation, Bylaws, Design Guidelines and rules and regulations of the Association are applicable and enforceable against any Resident (as defined herein) to the same extent as against an Owner. Any lease or rental agreement will be deemed to be subject to the documents of the Association by reference without the necessity of specific reference to them, and they will bind the tenant to their terms and conditions.

Section 6.02 Garages. Every Living Unit must have and maintain a garage large enough to accommodate under roof a minimum of two (2), but not more than three (3) full-sized automobiles. The garage may be attached to the residence or detached therefrom, but must be constructed contemporaneously with the construction of the residence. No garage may be permanently enclosed for conversion to any other use. Open carports are not permitted, unless special design circumstances warrant their use, in which case permission must be obtained in writing from the ARC. All garages must have garage doors constructed or faced with material harmonious in quality and color with the exterior of the Living Unit, and must be installed with electric opening and closing devices, which devices must at all times be kept in serviceable condition. All garage doors must be closed when not in use. Each Owner, Member or Resident may not perform repairs or maintenance to any vehicle outside of the garage or visible from the street. Vehicles may not be parked on any non-paved portion of any Lot.

Section 6.03 Accessory Buildings. Every accessory building and/or structure, inclusive of such structures as a storage building, gazebo, spa, greenhouse or children's playhouse, must be compatible with the Living Unit to which it is appurtenant in terms of its design and material composition. All such accessory buildings are subject to approval of the ARC. In no instance may an accessory building exceed one (1) story in height nor may the total floor area of an accessory building exceed ten percent (10%), individually or in the aggregate, of the floor area of the Living Unit.

Section 6.04 Building Materials. The exterior walls of all living Units must be constructed with seventy-five percent (75%) exterior masonry as prescribed by Design Guidelines. The minimum masonry percentage applies to the aggregate area of all exterior walls including chimneys but excluding doors, windows and similar openings. Masonry includes stucco, brick, brick veneer, stone, stone veneer, rock and cementitious boards or siding. In no instance may more than twelve (12) inches of the slab of the Living Unit be exposed above finished grade as viewed from any street, right-of-way or other Common Area. The ARC is empowered to waive this restriction if in its sole discretion such waiver is advisable or appropriate to accommodate a unique or advanced building concept, design or material, and the resulting structure will not detract from the general appearance of the neighborhood.

Roofing must be either slate, tile, factory fire treated wood, metal, or dimensional composition shingles, or other materials as approved by the ARC.

All fireplace flues and smoke stacks must be enclosed and concealed from public view in finished chimneys or materials architecturally compatible with the finish material of the exterior walls of the dwelling or otherwise approved by the ARC.

Mailboxes must be constructed of a material and design approved by the ARC. Mailboxes must be consistent with the architecture of the Living Unit.

Section 6.05 Height Restriction. No building or structure may exceed two and one-half (2-1/2) standard stories in height, provided however, that all applicable ordinances, regulations, and statutes with respect to the maximum height of buildings and structures must be complied with at all times.

Section 6.06 Minimum Floor Space. The main residence building of each residence constructed on a Lot must contain the minimum, contiguous square feet being exclusive of open or screened porches, terraces, patios, driveways, carports, garages and living quarters for domestic servant separated or detached from the primary living area as specified by the Design Guidelines.

Section 6.07 Setbacks. All buildings and structures must be constructed, placed and maintained in conformity with platted setback lines. In any event, no building or Living Unit may be located on any Lot nearer to or further from any property line of any Lot than specified in the PDD plan approved by the City of New Braunfels.

The ARC may establish additional setback lines for other structures.

Section 6.08 Fences. No fence or wall may be built or maintained forward of the front wall line, nor any hedge planted or maintained forward of the front setback line, of the main structure, not including decorative walls or fences which are part of the architectural design of the main structure, and which are subject to prior approval of the ARC. All fences or walls located on his respective Lots are to be maintained at the Owner's

expense. All fences must be of the following composition: all masonry matching the dwelling, wood, wrought iron with matching masonry, or other material approved by the ARC. Chain-link fences are prohibited. Wood privacy fences must be constructed of vertical cedar or spruce (1x6) planks, without gaps, with level top or notched "dog-ear" style. Privacy fences may be stained or treated to preserve the natural color of the wood, but may not be stained white or any harsh color, such as redwood. Decorative fences may be white or other colors as approved by the ARC. Owners are required to maintain the areas between curbs and sidewalks and sidewalks and front fences for the width of their respective Lots.

No fence, wall or hedge in the front of a Lot may exceed three feet (3'). Side or rear yard fences may not exceed eight feet (8') in height.

The ARC is empowered to grant variances to the aforesaid composition requirements for fences and the aforesaid height or setback limitation in connection with retaining walls when in its discretion, such fence requirement variances are consistent with traditional neighborhood character. Fences may be required to provide gates or panels for access by utility providers.

No fence, wall or hedge or shrub planting which obstructs sight lines at elevations between three (3) and six (6) feet above the roadway may be placed or permitted to remain on any corner Lot within the triangular area as formed by the street right-of-way lines and a line connecting them at points ten feet (10') from the intersection of the street right-of-way lines, or in the case of a rounded property corner, from the intersection of the street right-of-way lines as extended. No tree may be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 6.09 Driveways and Sidewalks. Driveways on each residential Lot must be constructed of brushed concrete. No "ribbon" or "strip" driveways are permitted, and each driveway must be paved its entire width. Minimum width requirements are specified in the Master Plan. All sidewalks must be a minimum of four feet (4') wide on the curb and be constructed of brush-finished concrete. All other materials and finishes are prohibited. Location, design and any decorative surface must be approved by the ARC. No dyes or stains are permitted. All sidewalks, crossways and driveway approaches must comply with City of New Braunfels specifications. All concrete spilled, poured or washed on a street must be immediately removed, leaving the street clean and unstained.

Each driveway must accommodate two (2) vehicles in front of the garage for off-street parking requirements. The driveway turnout must be constructed in such manner as to provide an attractive transitional radius from the curb and gutter into the driveway entrance and prevent escape of drainage water from the street onto any Lots.

Section 6.10 Temporary Structures. No structure of a temporary character (sales structure, trailer, tent, shack, garage, barn or other accessory buildings) may be used on any Lot at any time for storage or as a residence, either temporarily or permanently. No trailer (except Builder sales and construction trailers), camper, recreational vehicles, or similar vehicles may at any time be parked in view of any other Lot or Living Unit or connected to utilities situated within a Lot. No prefabricated dwelling or building previously constructed elsewhere may be placed or maintained on any Lot. No modular, manufactured, prefabricated or mobile home, whether or not the wheels have been removed, may be placed or maintained on any Lot. All structures of a temporary character must be approved by the ARC.

Section 6.11 Signs. No signs, banners, or pennants of any kind may be displayed to the public view on any single-family residential Lot except one (1) sign of not more than four (4) square feet advertising the property for rent or sale, or signs used by Declarant or Builder Member to advertise the property during the construction and sales period. Signs advertising subcontractors or suppliers are specifically prohibited. The sign may state only the name and phone number of the seller and/or their agent. Distressed, foreclosures and bankruptcy references are specifically prohibited. Political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal provided that such signs may not be erected more than 90 days in advance of the election to which they pertain and are removed within 15 days after the election. The ARC will have control over all verbiage on all signs. Except for signs advertising a Lot or Living Unit for sale and adhering to the standards of this Article, all signs are subject to the prior written approval of the ARC. Declarant or its agents have the right to remove any signs, billboard or other advertising structure that does not comply with the above, and in doing so will not be subject to any liability for trespass or any other liability in connection with such removal.

Section 6.12 Environmental Maintenance. All improved yards and lawns must be kept neat and well maintained and all grass, weeds, and vegetation on each Lot must be kept mowed at regular intervals. Trees, shrubs, vines and plants which die must be promptly removed from each Lot and replacements of equal quality or value promptly installed. Lawns must be properly maintained (not to exceed six inches [6"] in height) and fences must be repaired and maintained and no objectionable or unsightly usage of Lots will be permitted which is visible to public view. Building materials may not be stored on any Lot, and any excess materials not needed for construction and any building refuse must promptly be removed from each Lot.

Until a Living Unit is built on a Lot, Declarant or the Association may, at its option, have the grass, weeds and vegetation cut when and as often as the same is necessary in its judgment, and have dead trees, shrubs and plants removed therefrom. Declarant or the Association may also, at its option, remove any excess building materials or building refuse situated on a Lot in violation of this covenant. The Owner or Builder Member owner of any Lot is obligated to reimburse Declarant or the Association for the cost of such maintenance or removal upon demand.

Front and street side yards must be fully sodded commensurate with the time of the occupancy of a Living Unit upon completion of construction. All front yards and side yards on all Lots must be planted with grass or other ground cover exclusive of any landscape areas. Decorative ground cover rock in the front and side yards may not exceed ten percent (10%) of the total area of the front and side yards. Cuts into natural grade visible from the street are to be faced with masonry, sodding or landscaping. Allowances may be made for areas left in their natural state depending upon their appearance, and subject to the express approval of the ARC. Building coverage on a Lot may not exceed the limits specified in the Master Plan.

The Association may require any Owner to remove or eliminate any object situated on a Living Unit or Lot that is visible from any Common Area or from any other Lot, if, in the Board's sole judgment, such object detracts from the visual attractiveness of the Subdivision. The Association, and its agents, during normal business hours, have the right to (after 5 days written notice to the Owner of any Lot involved, setting forth the specific violation or breach of this covenant and the action required to be taken) enter on the subject premises (without any liability whatsoever for damages for wrongful entry, trespass or otherwise to any person or entity) and to take the action(s) specified in the notice to remedy or abate said violations(s) or breach(es). The cost of such remedy or abatement will be paid to the Association upon demand and if not paid within thirty (30) days thereof, will become a lien upon the Lot affected. The Association, or its agent, will further have the right (upon like notice and conditions), to trim or prune, at the expense of the Owner, any hedge, tree or

any other planting that, in the written opinion of the Association, by reason of its location on the Lot, or the height, or the manner in which it is permitted to grow, is detrimental to the adjoining Lots, is dangerous or is unattractive in appearance. The lien provided under this section will constitute a lien retained against the Lot with the same force and effect as the Lien for assessments set forth in this Declaration.

Section 6.13 Vehicles. No trailer, motor home, tent, boat, marine craft, hovercraft, aircraft, recreational vehicle, motor home, camper body, travel trailer, truck larger than a one (1) ton pick-up (except those used by a Builder Member during the construction of improvements), or wrecked, junked, or inoperable vehicle may be kept, parked, stored or maintained on any portion of the front yard area of a Lot nor be kept, parked, stored or maintained on other portions of the Lot, unless in an enclosed structure or in a screened area which prevents the view thereof from any Lots or dwelling and streets. No stripped down, wrecked, junked or inoperable trailers, boats, recreational vehicles or motor vehicles may be kept, parked, stored or maintained on any Lot. No dismantling or assembling of a motor vehicle, boat, trailer, any truck or any other machinery or equipment is permitted in any driveway or yard adjacent to a street. The ARC has the absolute authority to determine from time to time whether a vehicle and/or accessory is operable and adequately screened from public view. Upon an adverse determination by the ARC, the vehicle and/or accessory must be removed and/or otherwise brought into compliance with this paragraph within three (3) days of notification.

No vehicles, trailers, implements or apparatus may be driven or parked on any easement. No commercial vehicle bearing commercial insignia or names may be parked on any Lot except within an enclosed structure or a screened area which prevents such view thereof from adjacent Lots and streets, unless such vehicle is temporarily parked for the purpose of serving such Lot. No vehicle of any size which transports inflammatory or explosive cargo may be kept in the Subdivision at any time. No vehicles of any description may be parked overnight on any street within the Subdivision.

Parking on the street is limited to one side only and no parking is permitted on the other side of the street designated as a no parking zone.

Section 6.14 Offensive Activities. No noxious or offensive activity may be carried on upon any Lot, nor may anything be done thereon which may be or may become an annoyance or nuisance to the Owners, Properties or the Subdivision.

No Owner or occupant may perform any work that will impair the structural soundness or integrity of another Living Unit or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other Living Units or their Owners or Residents.

No exterior lighting of any sort may be installed or maintained on a Lot where the light source is offensive or a nuisance to other Owners or Lots (reasonable security, landscape, or tennis court light is permitted with the approval of the ARC).

No exterior speakers, horns, whistles, bells, or other sound devices (except security devices such as entry door and patio intercoms used exclusively to protect the Lot and improvements situated thereon) may be placed or used upon any Lot.

Section 6.15 Garbage and Refuse Disposal. No Lot may be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste must be kept in sanitary containers, whether arranged for alley pickup or street pickup. No trash, ashes, or other refuse may be thrown or dumped on any vacant Lot, park, street,

right-of-way, or drainage area in the Properties. No cans, bags, containers or receptacles for the storing or disposal of trash, garbage, refuse, rubble or debris may be stored, kept, placed or maintained on any Lot where visible from any street except solely on a date designated for removal of garbage and rubbish and on which days only such cans, bags, containers and receptacles may be placed in front of a residence and beside a street for removal but must be removed from view before the following day.

Section 6.16 Pets. No animals, livestock, poultry, any swine species (such as pot-bellied pigs) or exotic or dangerous pets of any type (i.e. pit bulls, boa constrictors, ferrets, etc.) that may pose a safety or health threat to the community may be raised, bred or kept on any Lot except for cats, dogs, or other generally recognized household pets of a reasonable number provided that they are not kept, or maintained for any commercial purposes and provided further that no more than a total of three (3) animals may be kept on a single Lot. Any pet which endangers the health of any Owner or occupant of a Lot or which creates a nuisance or an unreasonable disturbance or is not a common household pet, as may be determined by the Board, must be permanently removed from the Subdivision upon seven (7) days' written notice by the Board of Directors.

All such animals must be kept in strict accordance with all local laws and ordinances (including leash laws), and in accordance with all rules established by the Association. It is the responsibility of the owners of such household pets to prevent the animals from running loose or becoming a nuisance to the other residents. Owners are responsible for feces pick-up and removal with respect to their pets.

Section 6.17 Microwave, Radio, TV Antenna and Solar Collectors. No microwave dishes, radio, citizen band or otherwise, or television aerial wires or antennas may be maintained on any portion of any Lot, or in the Common Area, except direct broadcast satellite (DBS) antennae less than one meter in diameter, multichannel multipoint distribution system (MMDS) antennae less than one meter in diameter, or television broadcast antennae, which Owners must screen from view as much as possible without impairing the installation, maintenance or use. Solar apparatus, if erected, must be maintained in such a way that it is screened from view.

All matters set forth in this provision require the express approval, in advance, of the ARC, which must be exercised in conformity with the rules of the Federal Communications Commission.

Section 6.18 Air Conditioning Equipment. No window, roof or wall type air-conditioner that is visible from any public street may be used, placed or maintained on or in any Living Unit. No air-conditioning apparatus may be installed on the ground in front of a Living Unit. The ARC may permit wall type air conditioner units for "Granny flats" if in its discretion such units are low profile and will not extrude from the wall more than 12 inches.

Section 6.19 Athletic Facilities. Basketball goals, or backboards, or any other similar sporting equipment of either a permanent or temporary nature may not be placed on the front of any Lot or the side lot lines of corner lots in the Subdivision without the prior written consent of the ARC. All recreational equipment is subject to the Design Guidelines.

Section 6.20 Porches. At least seventy percent (70%) of the residences constructed in the single family detached residential area must have front porches. The ARC may require redesign of proposed residences in order to attain the front porch requirements of the Master Plan.

ARTICLE VII

RESTRICTIVE COVENANTS FOR OTHER PERMITTED USES

The specific covenants, conditions and restrictions for other permitted uses in the Subdivision may be imposed by Declarant alone, without joinder by other Owners by supplemental amendments to this Master Declaration consistent with the Master Plan.

ARTICLE VIII

EASEMENTS AND ACCESS

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Plat or Plats. Within these easements, if any, no structure, planting, fence or other material may be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or in the case of drainage easements, which may change or impede the direction of flow of water through drainage channels in such easements. The easement area of each Lot, if any, and all improvements in such area must be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. Neither the Association, Declarant nor any utility company using the easements herein or referred to will be liable for any damages done by them or their assigns, agents, employees or servants to shrubbery, streets or flowers or other property of the Owners situated on the land covered by said easements.

There is hereby created a right of ingress and egress across, over, and under the Properties in favor of Declarant and the Association, for the sole purpose of installing, replacing, repairing, and maintaining all facilities for utilities, including, but not limited to, water, sewer, telephone, cable TV, electricity, gas, and appurtenances thereto.

An easement is hereby extended and acknowledged to all police, fire protection, ambulance, garbage and trash collector pickup vehicles and all similar persons to enter upon the Common Area in performance of their duties.

Each Lot is conveyed subject to all easements, conditions and reservations shown on the Subdivision Plat and each Owner must take notice of all such easements, conditions, and reservations. No Owner may maintain any condition or improvements in any platted easement which will significantly interfere with the intended use of the easement.

Easements for drainage throughout the Subdivision are reserved as shown on the Subdivision Plat and/or Master Plan. No Owner of any Lot in the subdivision may perform or cause to be performed any act which would alter or change the course of such drainage easements in a manner that would divert, increase, accelerate or impede the natural flow of water over and across such easements. More specifically and without limitation, no Owner or resident of a Living Unit may:

- (1) alter, change or modify the existing natural vegetation of the drainage easements in a manner that changes the character of the original environment of such easements;

- (2) alter, change or modify the existing configuration of the drainage easements, or fill, excavate or terrace such easements, or remove trees or other vegetation therefrom without the prior written approval of the ARC and the City of New Braunfels' City Engineer;
- (3) construct, erect or install a fence or other structure of any type or nature within or upon such drainage easements;
- (4) permit storage, either temporary or permanent, of any type upon or within such drainage easements; or
- (5) place, store or permit to accumulate trash, garbage, leaves, limbs or other debris within or upon the drainage easements, either on a temporary or permanent basis.

By acceptance of a deed to any Lot, each Owner covenants and agrees to ensure such Lot is graded and maintained in accordance with the grading plan set forth in the Design Guidelines and that the drainage of such Lot is maintained in accordance with the grading plan.

The failure of any Owner to comply with the provisions of this Article will in no event be deemed or construed to impose liability of any nature on the Association, ARC and/or Declarant, and such Committee and/or Declarant may not be charged with any affirmative duty to police, control or enforce such provisions.

ARTICLE IX

LÔT CONSOLIDATION

Any Owner owning two (2) or more adjoining Lots or portions of two or more such Lots may, with the prior approval of the ARC or Declarant, consolidate such Lots or portions thereof into a single building site for the purpose of constructing such improvements as are permitted herein for the designated use, provided, however, that the Lot resulting from such consolidation will bear, and the Owner thereof will be responsible for, all assessments theretofore applicable to the Lots which are consolidated and each such building site shall meet, all lawful requirements of any applicable statute, ordinance or regulation.

ARTICLE X

ENFORCEMENT

If the Owner of any Lot, or its heirs, executors, administrators, successors, assigns or tenants, violates or attempts to violate any of the restrictions and covenants set forth in this Declaration, it will be lawful for the Association, Declarant, or any Owner subject to this Declaration, to prosecute any proceedings against the person or persons violating or attempting to violate any such restrictions and covenants. The failure of any Owner or tenant to comply with any restriction or covenant will result in irreparable damage to Declarant and other Owners of Lots in the Subdivision; thus the breach of any provision of this Declaration may not only give rise to an action for damages at law, but also may be enjoined or may be subject to an action for specific performance in equity in any court of competent jurisdiction. In the event an action is instituted to enforce the terms hereof or prohibit violations hereof, and the party bringing such action prevails, then in addition to any other remedy herein provided or provided by law, such party will be entitled to recover court costs and reasonable attorney's fees. Neither the Architectural Review Committee, Association, nor Declarant will be

charged with any affirmative duty to police, control or enforce the terms of this Declaration and these duties must be born by and be the responsibility of Lot Owners.

ARTICLE XI

COURTESY PATROL

Courtesy patrol may be provided by the Association, from time to time; however, neither the Declarant nor the Association is now a provider of security, and the Owners must provide their own security for themselves, their improvements, Property and personal property.

ARTICLE XII

MEMBERSHIP IN THE ASSOCIATION, VOTING RIGHTS AND REGISTRATION

Section 12.01 Members. Every Owner of a Property which is subject to assessment is a Member of the Association. Membership is appurtenant to and may not be separated from ownership of any Property which is subject to assessment.

Section 12.02 Classes of Voting. The Association has the following classes or categories of voting membership:

Class A. The Owners of the Property designated on the Master Plan for single family detached residential use are collectively entitled to thirty-four percent (34%) of the total votes which may be cast by all Owners, excluding Declarant, and individually, each Owner may cast one (1) vote per Lot or proposed lot, if unplatted.

Class B. The Owners of the Property designated on the Master Plan for "Multi-Family Development and Retirement Village" residential use are collectively entitled to eight percent (8%) of the total vote which may be cast by all Owners, excluding Declarant, and individually may cast 5.32 votes per acre owned.

Class C. The Owners of the Property designated on the Master Plan for "Sunday House" residential use are collectively entitled to eleven percent (11%) of the total votes which may be cast by all Owners, excluding Declarant, and individually may cast 8 votes per acre owned.

Class D. The Owners of the Property designated on the Master Plan for "Commercial-Restaurant & Vineyard" use are collectively entitled to eight percent (8%) of the total votes which may be cast by all Owners, excluding Declarant, and individually may cast 5.9 votes per acre owned.

Class E. The Owners of the Property designated on the Master Plan for the "Commercial-Cultural & Museum District, Mixed Use Village Shops" and "Commercial Mixed Use" are collectively entitled to eighteen percent (18%) of the total votes which may be cast by all Owners, excluding Declarant, and individually may cast 6.46 votes per acre owned.

Class F. The Owners of the Property designated on the Master Plan for "Commercial Office Building" use are collectively entitled to twelve percent (12%) of the total votes which may be cast by all Owners, excluding Declarant, and individually may cast 10.62 votes per acre owned.

Class G. The Owners of the Property designated on the Master Plan for "Reserved-Mixed Use" are collectively entitled to nine percent (9%) of the total votes which may be cast by all Owners, excluding Declarant, and individually may cast 11.34 votes per acre owned.

Class H. The Declarant is entitled to three times the number of votes otherwise permitted Owners hereinabove, for the applicable category. Class H voting for each category terminates when Declarant no longer owns at least twenty-five percent (25%) of the land area within such category.

Section 12.03 Title to Common Area. The Declarant may retain the legal title to the Common Area or parts thereof owned by Declarant until such time as it has completed improvements and landscaping thereon and until such time as, in the sole opinion of Declarant, the Association is able to operate and maintain the same. The irrigation well located on land currently not part of the Property is part of the Common Area. Until title to such Common Area has been conveyed to the Association by Declarant, Declarant is entitled to exercise all rights and privileges relating to such Common Area granted to the Association in this Declaration. Title to those portions of the Common Area now or hereinafter dedicated to a governmental entity will remain in such entity.

Section 12.04 Suspension of Voting Rights. All voting rights of an Owner may be suspended by the Board of Directors during any period in which such Owner is delinquent in the payment of any duly established assessment or is otherwise in default and/or violation thereunder or under the Bylaws or rules and regulations of the Association.

Section 12.05 Registration with the Association. In order that the Declarant and the Association can properly determine voting rights and acquaint every Lot purchaser and every Owner, Resident and Member with these covenants and the day-to-day matters within the Association's jurisdiction, each Owner, Member and Resident has an affirmative duty and obligation to originally provide, and thereafter revise and update, within fifteen (15) days after a material change has occurred, various items of information to the Association such as: (a) the full name and address of each Owner, Member and Resident; (b) the business address, occupation and telephone number of each Resident; (c) the description and license plate number of each automobile owned or used by a Resident and brought within the Properties; (d) the name, address and telephone numbers of other local individuals who can be contacted (in the event the Resident cannot be located) in case of an emergency; and (e) such other information as may be reasonably requested from time to time by the Association. In the event any Owner, Member or Resident fails, neglects or refuses to so provide, revise and update such information, then the Association may, but is not required to, use whatever means it deems reasonable and appropriate to obtain such information and the offending Owner, Member and Resident will become automatically jointly and severally liable to promptly reimburse the Association for all reasonable costs and expenses incurred in so doing.

ARTICLE XIII

COVENANTS FOR MAINTENANCE ASSESSMENTS

Declarant, for each Property owned by it, hereby covenants, and each Builder Member and every Owner of a Property, by acceptance of a deed thereto, whether or not it is so expressed in any such deed or other conveyance, will be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; (2) special assessments, such assessments to be fixed, established, and collected from time to time as hereinafter provided; and (3) Member Charges levied against individual Owners to reimburse the Association for extra or unusual costs incurred by the Association for curing the Owner's violation of a restrictive covenant contained in this Declaration. The annual and special assessments, together with such interest thereon, reasonable attorney's fees and costs of collection thereof, as are hereinafter provided, will be a charge on the land and a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon, reasonable attorney's fees and cost of collection thereof as hereinafter provided is also the personal obligation of the person who was the Owner of such property at the time the obligation accrued.

The assessments levied by the Association are to be used for the purpose of promoting the recreation, health, safety and welfare of the Members, and in particular, 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.

Section 13.01 Annual Assessments. The annual assessments for both improved and unimproved Properties and for each class of Members will be determined by the Board of Directors in the manner provided for herein after determination of current maintenance costs and anticipated needs of the Association during the year for which the assessment is being made. The maximum annual assessment for each class of Member may be adjusted by a majority vote of the Board of Directors, without membership vote, but may not be increased to more than the greater of: (i) one hundred and ten percent (110%) above the prior year's annual assessment (ii) the result of multiplying said rate by a fraction, the numerator of which is the latest Consumer Price Index published on or before the sixtieth (60th) day prior to the date the Board sets the new maximum annual assessment rate and the denominator of which is the Consumer Price Index published on the year prior to the one used in the numerator. Consumer Price Index is the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor for All Urban Consumers. In the event the compilation and/or publication of the Consumer Price Index is substantially revised, the index (or a substitute procedure which reasonably reflects and monitors fluctuations in consumer prices most nearly the same as the Consumer Price Index will be used to make the calculations. The Association may increase the maximum annual assessment rate by more than the amount specified in the preceding sentence only upon receipt of a two-thirds (2/3) approving vote of the Owners of Properties in each membership class at a meeting called for vote on such a proposed increase.

Separate assessments for each class of Members will be set in a manner whereby the costs and expenses of the Association in carrying out the duties and responsibilities herein set forth can be fairly and equitably shared by all Owners. The Board will allocate the annual assessment for the Subdivision among the classes of Members on a fair and equitable basis.

Notwithstanding any language to the contrary contained in this Section, Declarant's annual assessment for any particular year with respect to each class of Properties owned prior to the conversion of Declarant's

Class H voting rights to other class voting rights will equal the greater of (i) an amount equal to the annual budget for that year allocated to that class multiplied by a fraction, the numerator of which is the number of Lots and/or area of Property attributable to the Declarant and the denominator of which is the total number of Lots and/or area of Property in the class at the time of the assessment; or (ii) the amount by which said budget exceeds the total amount of annual assessments payable for said year by all other Owners of Lots in that class. After the conversion of Declarant's Class H voting rights to other class voting rights, Declarant's annual assessment for any particular year will equal an amount equal to the annual class budget for the year multiplied by a fraction, the numerator of which is the number of Lots and/or area of Property owned by the Declarant and the denominator of which is the total number of Lots and/or area of Property in the class at the time of the assessment.

Section 13.02 Special Assessments. In addition to the annual assessments provided for above, the Association may levy, in any assessment year, a special assessment on improved Properties 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 Area, respond to the unusual emergency needs of the Association as may be expected to appear from time to time, or for such other lawful purpose related to the use of the Properties as the Board of Directors or the Owners may determine, provided that any such assessment must have the vote or written assent of fifty-one percent (51%) of each class of Members affected hereby.

Section 13.03 Member Charge. In addition to the annual assessment and any special assessment, the Association, by vote of the Board, may impose a charge (Member Charge) upon any Owner for the purposes of reimbursing the Association for all direct and indirect costs incurred by the Association with regard to the maintenance, repair or replacement of landscaping or site improvements on any particular Property when the Board has determined the maintenance, repair or replacement of improvements associated with such Owner's Property has been neglected to the point where conditions existing on such Property are not in conformance with the maintenance obligations set forth in Section 6.12 of this Declaration, or an Owner places anything in the Common Area. The Owner of such Property will be notified in writing of said determination and the specific deficiencies found to exist and be afforded a reasonable period of time to respond to said notice by correcting the deficiencies. The Owner may be assessed the cost of reimbursing the Association for any and all costs, including attorney's fees, to secure compliance.

Section 13.04 Due Dates, Budget and Late Charges. The annual assessments provided for herein will become due and payable and collected as the Board of Directors of the Association determines. The amount of the first annual assessment for each class of Property will be an amount which bears the same relationship to the annual assessment for such class provided for above as the remaining number of months in that year bear to twelve. The Board will use reasonable efforts to provide each Owner with an invoice statement as of the appropriate amount due, but any failure to provide such a notice does not relieve any Owner of the obligation. The special assessments are due and payable on the date fixed in the resolution authorizing the special assessment. Member Charges are due and payable within thirty (30) days after the Owner was served with notice by the Association of the amount of such Member Charge.

Each year, the Board of Directors of the Association will adopt an annual budget and set the amount of the annual assessment for each class of Property, taking into consideration the Association's operating cost for the then current year, expected increases or decreases in such costs over the next year, and future needs of the Association. The annual budget will be adopted by the Board at least thirty (30) days prior to the commencement of each fiscal year.

Any assessment not paid within thirty (30) days after the due date bears interest from the due date at a rate to be determined, from time to time, by the Board, not to exceed the maximum permitted by law. If the Board refuses or fails to determine a rate of interest, the rate of interest will be eighteen percent (18%) per annum. If applicable state law provides or requires an alternate ceiling under Vernon's Annotated Texas Civil Statutes Article 5069-1.04, then that ceiling will be the indicated rate ceiling.

Section 13.05 Remedies and Lien for Assessments. Each Owner, by his acceptance of a deed to a Property, 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 non-judicial or judicial foreclosure by an action brought in the name of the Association, and grants to the Association the power of sale in connection with said lien. The President of the Board of Directors has the right to appoint Agents, to mail and file the notices required by Texas Property Code § 51.002, to conduct the sale, and to otherwise comply with the statute. The lien provided for in this Section will be in favor of the Association and be for the benefit of all other Lot Owners. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Property.

In addition to the foregoing charges for delinquent accounts, each Owner is obligated to pay to the Association all actual costs of collection incurred by the Association, including attorney's fees and such reasonable late charges and collection charges as the Board of Directors may establish, all of which are also subject to the liens of the Association.

All payments will be applied first to costs and attorney's fees, then to late charges, then to interest, then to delinquent assessments, then to any unpaid installments of the annual assessment or special assessments which are not the subject matter of suit in the order of their coming due, and then to any unpaid installments of the annual assessment or special assessments which are the subject matter of suit in the order of their coming due.

Notice of the lien may be given, but is not required, by the recordation in the Real Property Records of Comal County, Texas, of a Notice of Assessment Lien, duly executed by an officer, managing agent, attorney or officer of the Association, setting forth the amount owed, the name of the last known Owner or Owners of record, and the legal description of the Property.

At any foreclosure, judicial or non-judicial, the Association is entitled to bid up to the amount of the sum secured by its lien, together with costs and attorney's fees, and to apply as a cash credit against its bid all sums due to the Association covered by the lien foreclosed. From and after any such foreclosure the occupants of such Property will be required to pay a reasonable rent for the use of such improvements and such occupancy will constitute a tenancy-at-sufferance, and the purchaser at such foreclosure sale will be entitled to appoint a receiver to collect such rents and, further, will be entitled to sue for recovery of possession of such Property by forcible detainer or by writ of possession.

The lien of the assessments provided for herein is subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the Lots subject to assessment, provided, however, that such subordination applies 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, non-judicial foreclosure, or conveyance in lieu of foreclosure or in satisfaction of mortgage debt. Such sale or transfer does not relieve such Lot from liability for any assessments thereafter becoming due nor from the lien of any such subsequent assessment.

ARTICLE XIV

MAINTENANCE FUND AND GENERAL POWERS AND DUTIES
OF THE BOARD OF DIRECTORS OF THE ASSOCIATION

Section 14.01 Maintenance Fund. The Board, for the benefit of the Owners, may establish and maintain a maintenance fund into which will be deposited the annual assessments collected from Owners and which maintenance fund will be used, without limitation, for the payment of the following:

- (a) Taxes and assessments and other liens and encumbrances which are properly assessed or charged against the Common Areas rather than against the individual Owners, if any.
- (b) Care and preservation of the Common Area.
- (c) The services of a professional person or management firm to manage the Association or any separate portion thereof to the extent deemed advisable by the Board of Directors (provided that any contract for management of the Association must be terminable by the Association, with no penalty upon ninety (90) days prior written notice to the managing party) and the services of such other personnel as the Board of Directors or the manager may determine.
- (d) Legal and accounting services.
- (e) A policy or policies of insurance insuring the Common Area, the Association, its directors, and officers against any liability to the public or to the Owners (and/or invitees or tenants) incident to the operation of the Association in any amount or amounts as determined by the Board of Directors.
- (f) Workers compensation insurance to the extent necessary to comply with any applicable laws.
- (g) Such fidelity bonds as may be required by the Bylaws or as the Board of Directors may determine to be advisable.
- (h) Any other materials, supplies, insurance, furniture, labor, services, maintenance, repairs, structural alterations, taxes or assessments (including taxes or assessments assessed against an individual Owner) which the Board of Directors is required to obtain or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be necessary or proper for the enforcement of this Declaration.
- (i) Perpetual maintenance and enhancement of all Common Area including walls, gates, grounds, landscaping, lights, irrigation and electric for right-of-way and all entry monuments, walls, and signs owned or maintained by the Association.

Section 14.02 Powers and Duties of Board. The Board, for the benefit of the Owners, has the following general powers and duties, in addition to the specific powers and duties provided for herein and in the Bylaws of the Association:

- (a) To execute all declarations of ownership for tax assessment purposes and with regard to the Common Areas, if any, on behalf of all Owners,

- (b) To borrow funds to pay costs of operation secured by assignment or pledge of rights against delinquent Owners if the Board sees fit.
- (c) To enter into contracts, maintain one or more bank accounts, and generally to have all the power necessary or incidental to the operation and management of the Association.
- (d) To protect and defend the Common Areas from loss or damage by suit or otherwise and to provide adequate reserves for replacements.
- (e) To make reasonable rules and regulations for the operation of the Common Areas and to amend them from time to time; provided that, any rule or regulation may be amended or repealed by an instrument signed by a majority of the Owners.
- (f) To make available for inspection by Owners within sixty (60) days after the end of each year an annual report and to make all books and records of the Association available for inspection by Owners at reasonable times and intervals.
- (g) To adjust the amount, collect and use any insurance proceeds to repair damage or replace lost property, and if proceeds are insufficient to repair damage or replace lost property, to assess the Owners in proportionate amounts to cover the deficiency.
- (h) To enforce the provisions of any rules made hereunder and to enjoin and seek damages from any Owner for violation of such provisions or rules.
- (i) To collect all assessments and enforce all penalties for non-payment including the filing of liens and institution of legal proceedings.
- (j) To establish a monetary "fines" system which shall include due process hearings and a discretionary range of fine amounts, which, when levied, will constitute a permitted Member Charge assessment secured by the lien herein established.
- (k) To establish reserve funds which may be maintained and/or accounted for separately from other funds maintained for annual operating expenses.

The Board has the exclusive right to contract for all goods, services and insurance payment of which is to be made from the maintenance funds and the exclusive right and obligation to perform the functions of the Board except as otherwise provided herein.

The Board, on behalf of the Association, has full power and authority to contract with any Owner or other person or entity for the performance by the Association of services which the Board is not otherwise required to perform pursuant to the terms hereof, such contracts to be upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interest of the Association.

ARTICLE XV

INSURANCE AND CONDEMNATION

Section 15.01 Fire, Hazard and Casualty Insurance. Owners of Properties hereby covenant and agree with all other Owners and the Association to carry all-risk casualty insurance on their Property. Each Owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction, the Owner must proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original improvements thereon. In the event the improvements are totally destroyed and the Owner determines not to rebuild or reconstruct, the Owner must clear the affected Property of all debris and return it to substantially the natural state in which it existed prior to the beginning of the construction. Each Owner is responsible, at his own cost and expense, for personal liability insurance to the extent not covered by the Association and public liability insurance acquired by the Association on behalf of all Owners with respect to the Common Area.

Section 15.02 Property and Public Liability Insurance with Respect to Common Area, Errors and Omissions and Indemnification.

(a) The Board of Directors of the Association will obtain and continue in effect property insurance, to insure the buildings and structures in the Common Area, naming the Association as beneficiary with an endorsement to the mortgagee, if any, against risks of loss or damage by fire and other hazards as are covered under standard fire and extended coverage provisions, and said insurance to include coverage against vandalism.

(b) The Board of Directors of the Association will obtain comprehensive public liability insurance in such limits as it deems desirable, insuring the Association, its agents and employees, and each Owner, from and against liability in connection with the Common Area.

(c) The Board of Directors of the Association may obtain liability insurance covering errors and omissions of directors, officers, managers, employees and representatives of the Association, and fidelity bonds for all officers and employees which have control over the receipt or disbursement of funds.

(d) The Association may indemnify directors, officers, employees and agents and may purchase indemnity insurance in accordance with the provisions of Article 2.22A of the Texas Non-Profit Corporations Act.

Section 15.03 Insurance Premiums with Respect to Common Area. All costs, charges and premiums for all insurance with respect to the Common Area that the Board of Directors authorizes as provided herein will be a common expense of all Owners and be part of the annual assessment.

Section 15.04 Other Insurance. None of the above prevents the Board of Directors from obtaining other insurance as may be required by law (e.g. workers compensation) or other insurances which may become the norm for properties of this nature.

Section 15.05 Condemnation. If part or all of the Common Area is taken or condemned by any authority having the power of eminent domain, any compensation and damages will be paid to the Association. The Board of Directors has the exclusive right to act on behalf of the Association with respect to the negotiation

and litigation of the taking or condemnation issues affecting such Common Area. The Owners may, by vote of seventy-five percent (75%) or more of each affected Class of Members agree to distribute the proceeds of any condemnation or taking by eminent domain, to each Owner and his mortgagee, if any, as their interest may appear. In the event that the Owners do not so agree, such proceeds will be added to the funds of the Association, and the Association will decide on whether or not to replace or restore, as far as possible, the Common Area so taken or damaged.

The Association will give timely notice of the existence of such proceedings to all Owners and their mortgagees, if any. The expense of participation in such proceedings will be common expenses chargeable to the Association.

Section 15.06 Insufficient Proceeds. If the insurance or condemnation proceeds are insufficient to repair or replace any loss or damage, the Association may levy a special assessment as provided for in Section 13.02 of this Declaration.

ARTICLE XVI

AMENDMENT AND ANNEXATION

This Declaration will remain in force and effect for a period of thirty (30) years after this Declaration is recorded, at which time, and each tenth anniversary thereafter, this Declaration will be renewed for a period of ten years unless amended as provided herein. This Declaration may be amended by written instrument approved by the affirmative vote of the Members of the Association holding at least seventy-five percent (75%) of the total votes for each class of Property. The amendment will be effective when it is certified by the President of the Association as to the requisite number or votes and recorded in the Official Public Records of Real Property of Comal County, Texas. Any amendment so certified and recorded will conclusively be presumed to have been duly adopted. Declarant has the right to file an amendment to this Declaration, without the necessity of joinder by any other Owner for the limited purposes of correcting a clerical error, clarifying an ambiguity, removing any contradiction in the terms hereof, or for the purpose of making such additions or amendments hereto as may be required by FHA, HUD or VA to qualify the Properties for mortgage guaranties issued by FHA and/or VA. Declarant also has the right to file supplements to this Declaration, without the necessity of joinder by any other Owner for the purpose of imposing specific covenants, conditions and restrictions with respect to permitted uses of the Property designated in the Master Plan other than single family detached residential uses.

Declarant has the right, privilege and option to annex additional land to make it subject to this Declaration until January 1, 2020, by filing in the Official Public Records of Real Property of Comal County, Texas, an amendment annexing such property. Additional property may be thereafter annexed and made subject to this Declaration, or property may be withdrawn, by written instrument approved by the affirmative vote of the Members of the Association holding at least seventy-five percent (75%) of the total votes of each class of Property and filed of record in the Official Public Records of Real Property of Comal County, Texas.

ARTICLE XVII

GOVERNMENTAL REQUIREMENTS

By acceptance of a deed to a Lot, or initiating construction of improvements to a Lot, each Builder Member and contractor assumes responsibility for complying with all certifications, permitting, reporting, construction, and procedures required under all applicable governmental rules, regulations, and permits, including, but not limited to those promulgated or issued by the Environmental Protection Agency and related to Storm Water Discharges from Construction Sites (see Federal Register, Volume 57, No. 175, Pages 41176, et seq.), and with the responsibility of ascertaining and complying with all regulations, rules, rulings, and determinations of the Texas Water Development Board and Texas Water Commission, related to each Lot, including, without limitation, the provisions of chapters 325 and 331, Texas Administrative Code, and any specific rulings made pursuant to the terms thereof. The foregoing references are made for the benefit of builders and contractors and do not in any way limit the terms and requirements of this covenant and the requirement that all Builder Members and contractors comply with all governmental regulations, and any plan required by such regulations such as Storm Water Pollution Plan, affecting each Lot and construction site with which they are associated, including delivery to Declarant of a certification of understanding relating to any applicable NPDES permit prior to the start of construction. Each Builder Member and contractor, by acceptance of a deed to a Lot or undertaking the making of improvements to a Lot, holds harmless and indemnifies Declarant against cost, loss, or damage occasioned by the failure to abide by any applicable governmental statute, rule, regulation or permit related to the Properties.

By acceptance of a deed to a Lot, each Builder Member and Owner agrees that Declarant and the Association has the right to enter upon any Lot on which one or more conditions or activities prohibited by appropriate governmental authority is maintained, or on which there has been a failure to perform any act required by appropriate governmental authority, for the purpose of curing any such violation, provided that the Owner or Builder Member has been given five days prior written notice and has failed to remedy the complained of violation within such time, and each such Owner and Builder Member indemnifies and holds harmless Declarant and the Association from all cost and expense of such curative action and any cost or expense of penalty or fine levied by any governmental authority as a result of the act or failure to act of the Owner or Builder Member with respect to his Lot or the Properties. The foregoing remedy is cumulative of all other remedies for violations of provisions of these covenants.

ARTICLE XVIII

GENERAL PROVISIONS

Section 18.01 Interpretation. If this Declaration or any word, clause, sentence, paragraph, or other part thereof is susceptible to more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration governs. Whenever the application of the provisions of this Declaration, or any amendment hereto, conflicts with the application of any provision of the Bylaws of the Association, the provisions or application of this Declaration prevails.

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 is omitted herefrom, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provision may be supplied by inference.

The singular, whenever used herein, will be construed to mean the plural, when applicable, and the necessary grammatical changes required to make the provisions here apply either to corporations or individuals, males or females, will in all cases be assumed as though in each case fully expressed.

Section 18.02 Notices. Any notice required to be given to any Owner, Member or Resident will be complete when the notice is deposited in the United States Mail, postage prepaid, and addressed to the Owner, Member or Resident at the last known address as shown by the records of the Association, pursuant to Section 12.05 of this Declaration.

Section 18.03 Headings. The headings contained in this Declaration are for reference purposes only and do not in any way affect the meaning or interpretation of this Declaration.

Section 18.04 NOTICE. The Design Guidelines and Master Plan for the Properties, the Rules and Regulations of the Association, the Bylaws of the Association and other documents and information which may affect an Owner or prospective Owner should be carefully reviewed and examined to determine such Owner's rights and obligations.

EXECUTED effective the 24th day of August, 2000.

DECLARANT:

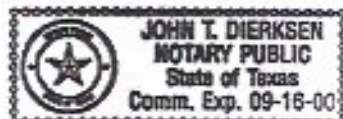
TOGA, LLC

By: Jerry Ford
Jerry Ford, Manager

THE STATE OF TEXAS §

COUNTY OF COMAL §

This instrument was acknowledged before me on August 24, 2000, by JERRY FORD, Manager of TOGA, LLC, a limited liability company, on behalf of said and in the capacity stated.



John T. Dierksen
Notary Public, State of Texas

Consent and Subordination by Lienholder

Lienholder, as the holder of liens on the Properties, consents to the above Master Declaration of Covenants, Conditions and Restrictions ("Master Declaration"), and Lienholder subordinates its liens to the Master Declaration, so that a foreclosure of the liens will not extinguish the terms and provisions of the Master Declaration.

SOUTHWEST BANK OF TEXAS, N.A.

By: Chris Denison
 Name: CHRISTOPHER DENISON
 Its: SENIOR VICE PRESIDENT

THE STATE OF TEXAS

COUNTY OF Montgomery

This instrument was acknowledged before me on August 29, 2000, by Chris Denison, the Senior Vice President of SOUTHWEST BANK OF TEXAS, N.A., on behalf of same and in the capacity stated.



Natalie R. Rodriguez
 Notary Public, State of Texas

**PROPERTY DESCRIPTION
OF**

90.434 acres of land located in the City of New Braunfels, Comal County, Texas and being out of the Henry Foster Survey No. 34, Abstract No.154, and the Alanson P. Fuquay Survey No. 35, Abstract No. 155, Comal County Texas, and also being part of a 326.51 acre tract as conveyed by Deed from Edwin E. Hanz and Anita M. Hanz Living Trust, executed November 20, 1991 and recorded in Volume 794, Pages 591-592 of the Official Public Records of Comal County, Texas, said 90.434 acres of land being more particularly described as follows:

BEGINNING: at a found $\frac{1}{2}$ " iron pin at the intersection of the Northeast Right of Way Line of Gruene Road with the Southeast Right of Way Line of Waterway;

THENCE: the following courses along the Northwest line of this parcel and the Southeast Right of Way Line of Waterway:

- (1) NORTH 54 deg. 35' 08" East, (all bearings in this description are referenced to the Southwest boundary line of the HANZ ESTATES SUBDIVISION, UNIT NO. 2 as recorded in Volume 11, Page 357 of the Map and Plat Records of Comal County, Texas), a distance of 373.85 feet to a found $\frac{1}{2}$ " iron pin being an angle point;
- (2) SOUTH 34 deg. 46' 53" East, a distance of 294.97 feet to a set $\frac{1}{2}$ " iron pin being an angle point;
- (3) NORTH 55 deg. 41' 43" East, a distance of 184.01 feet to a set $\frac{1}{2}$ " iron pin being an angle point;
- (4) NORTH 34 deg. 47' 07" West, a distance of 298.54 feet to a found $\frac{1}{2}$ " iron pin being an angle point; and
- (5) NORTH 54 deg. 35' 16" East, a distance of 596.03 feet to a found $\frac{1}{2}$ " iron pin being the Northernmost corner of this parcel and the Westernmost corner of a 9.569 acre tract designated as a CORRECTION PLAT OF HANZ ESTATES SUBDIVISION, UNIT NO. 2, as recorded in Volume 11, Page 357 of the Map and Plat Records of Comal County, Texas;

EXHIBIT "A"

THENCE:

the following courses along the Northeast line of this parcel and the Southwest line of said HANZ ESTATES SUBDIVISION, UNIT NO. 2, and HANZ ESTATES, LOT 1, BLOCK 3 as recorded in Volume 12, Page 25 of the Map and Plat Records of Comal County, Texas and HANZ ESTATES, LOTS 1 AND 2, BLOCK 4 as recorded in Volume 12, Page 24 of the Map and Plat Records of Comal County, Texas;

- (6) SOUTH 30 deg. 12' 25" East, (said bearing being a reference bearing for all bearings in this description), a distance of 1,229.84 feet to a found $\frac{1}{2}$ " iron pin being an angle point;
- (7) NORTH 59 deg. 48' 14" East, a distance of 550.86 feet to a found $\frac{1}{2}$ " iron pin being a point of curvature;
- (8) 15.71 feet with the arc of a curve to the left, having a radius of 10.00 feet and a central angle of 90 deg. 00' 00" and whose chord bears North 14 deg. 48' 14" East, a distance of 14.14 feet to a found $\frac{1}{2}$ " iron pin being an angle point;
- (9) SOUTH 30 deg. 11' 46" East, a distance of 80.00 feet to a found $\frac{1}{2}$ " iron pin being a point of curvature;
- (10) 15.71 feet with the arc of a curve to the left, having a radius of 10.00 feet and a central angle of 90 deg. 00' 00" and whose chord bears North 75 deg. 11' 46" West, a distance of 14.14 feet to a found $\frac{1}{2}$ " iron pin being a point of tangency;
- (11) SOUTH 59 deg. 48' 14" West, a distance of 550.85 feet to a found $\frac{1}{2}$ " iron pin being an angle point;
- (12) SOUTH 30 deg. 12' 25" East, a distance of 1,238.71 feet to a found $\frac{1}{2}$ " iron pin being an angle point;
- (13) SOUTH 26 deg. 48' 15" West, a distance of 165.01 feet to a found $\frac{1}{2}$ " iron pin being an angle point;
- (14) SOUTH 66 deg. 55' 22" East, a distance of 425.81 feet to a found $\frac{1}{2}$ " iron pin being a point in the Southwest Right of Way Line of Common Street, being the Easternmost corner of this parcel, and a point of curvature;

- (15) THENCE 435.18 feet, with the arc of a curve to the right having a radius of 1105.92 feet, and a central angle of 22 deg. 32' 45" and whose chord bears South 34 deg. 19' 56" West, a distance of 432.37 feet to a found $\frac{1}{2}$ " iron pin, being the Southernmost corner of this parcel;

THENCE:

the following courses along the Southwest line of this parcel and the Northeast line of HANZ ESTATES, UNIT ONE as recorded in Volume 11, Page 177, of the Map and Plat Records of Comal County, Texas, a 31.695 acre tract as recorded in Volume 325, Page 869 of the Deed Records of Comal County, Texas and the BILLIE AND ED MILES SUBDIVISION as recorded in Volume 10, Page 191 of the Map and Plat Records of Comal County, Texas:

- (16) NORTH 41 deg. 09' 53" West, a distance of 397.09 feet to a found $\frac{1}{2}$ " iron pin being an angle point;
- (17) SOUTH 48 deg. 44' 28" West, a distance of 221.72 feet to a found $\frac{1}{2}$ " iron pin being an angle point;
- (18) NORTH 44 deg. 11' 34" West, a distance of 785.36 feet to a set $\frac{1}{2}$ " iron pin being an angle point;
- (19) SOUTH 56 deg. 21' 31" West, a distance of 815.71 feet to a found $\frac{1}{2}$ " iron pin being an angle point;
- (20) NORTH 15 deg. 22' 53" West, a distance of 528.24 feet to a found $\frac{1}{2}$ " iron pin being an angle point; and
- (21) SOUTH 74 deg. 37' 57" West, a distance of 554.59 feet to a found $\frac{1}{2}$ " iron pin, a point being the Westernmost corner of this parcel in the East Right of Way Line of Gruene Road;

THENCE:

the following courses along the West line of this parcel and the East Right of Way Line of Gruene Road:

- (22) NORTH 15 deg. 16' 59" West, a distance of 56.60 feet to a found $\frac{1}{2}$ " iron pin being an angle point;
- (23) NORTH 15 deg. 16' 33" West, a distance of 1055.61 feet to a found $\frac{1}{2}$ " iron pin being an angle point;
- (24) NORTH 10 deg. 13' 10" West, a distance of 60.35 feet to a found $\frac{1}{2}$ " iron pin being an angle point;

- (25) NORTH 08 deg. 44' 58" East, a distance of 43.89 feet to a found $\frac{1}{2}$ " iron pin being an angle point;
- (26) NORTH 23 deg. 08' 05" East, a distance of 65.29 feet to a found $\frac{1}{2}$ " iron pin being an angle point;
- (27) NORTH 30 deg. 43' 41" East, a distance of 203.48 feet to a found $\frac{1}{2}$ " iron pin being an angle point; and
- (28) NORTH 54 deg. 24' 58" East, a distance of 259.30 feet to a found $\frac{1}{2}$ " iron pin the POINT OF BEGINNING, containing 90.434 acres of land, more or less.

SAVE and EXCEPT a 1.899 acre tract dedicated to the City of New Braunfels for new Right of Way for Gruene Road and being more particularly described as follows:

BEGINNING: at a found $\frac{1}{2}$ " iron pin at the intersection of the Northeast Right of Way Line of Gruene Road with the Southeast Right of Way Line of Waterway;

THENCE: the following courses along the Northeast Right of Way Line of said Gruene Road and this parcel:

- (1) SOUTH 05 deg. 01' 07" West, a distance of 803.72 feet to a found $\frac{1}{2}$ " iron pin being a Point of Curvature; and
- (2) 761.63 feet with the arc of a curve to the left having a radius of 2834.93 feet and a central angle of 15 deg. 23' 35" and whose chord bears South 02 deg. 40' 41" East, a distance of 759.34 feet to a set $\frac{1}{2}$ " iron pin in the Northwest boundary line of said BILLIE AND ED MILES SUBDIVISION, and being the Southeast corner of this parcel;

THENCE: (3) SOUTH 74 deg. 37' 57" West, a distance of 8.93 feet along the South boundary line of this parcel to a set $\frac{1}{2}$ " iron pin in the existing East Right of Way Line of Gruene Road and being the Southwest corner of this parcel;

THENCE: the following courses along the West boundary line of this parcel and the existing West Right of Way Line of Gruene Road:

- (4) NORTH 15 deg. 16' 59" West, a distance of 56.60 feet to a found $\frac{1}{2}$ " iron pin being an angle point; and

- (5) NORTH 15 deg. 16' 33" West, a distance of 294.42 feet to a set 1/2" iron pin being a Point of Curvature whose radius bears North 86 deg. 32' 56" East, a distance of 2894.93 feet;

THENCE:

the following courses along the new Southwest Right of Way Line of Gruene Road:

- (6) 427.94 feet with the arc of a curve to the right having a radius of 2894.93 feet and a central angle of 08 deg. 28' 11" and whose chord bears North 00 deg. 47' 01" East, a distance of 427.55 feet to a found 1/2" iron pin being a Point of Tangency; and
- (7) NORTH 05 deg. 01' 07" East, a distance of 752.29 feet to a found 1/2" iron pin in the South Right of Way Line of Gruene Road and being the Northwest corner of this parcel;

THENCE:

- (8) NORTH 54 deg. 24' 58" East, a distance of 79.03 feet along the North boundary line of this parcel and the existing South Right of Way Line of Gruene Road to a found 1/2" iron pin being the POINT OF BEGINNING, containing 1.899 acres of land.

THIS LEGAL DESCRIPTION WAS WRITTEN IN CONJUNCTION WITH A SURVEY PLAT PREPARED IN OUR OFFICE ON 02/16/99, JOB NO. 09-06-98.



Stephen E. Schultz
Stephen E. Schultz, R.P.L.S.
Registration No. 4233

Doc# 200006027066
Pages 33
Date: 9/1/00 3:16:10 PM
Filed & Recorded in
Official Records of
COMAL COUNTY
JOY STREATER
COUNTY CLERK
Fees \$73.00

Doc# 200006027066

**FIRST AMENDMENT TO MASTER DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR COTTON CROSSING SUBDIVISION
EFFECTING WITHDRAWAL OF PROPERTY**

WHEREAS, TOGA, L.L.C. filed the Master Declaration of Covenants, Conditions and Restrictions for Cotton Crossing Subdivision ("the Declaration") as Document #200006027066 in the Official Public Records of Real Property of Comal County, Texas, covering the property therein described (the "Property" or the "Subdivision"); and

WHEREAS, the Declaration sets forth the covenants, restrictions, easements, charges and liens governing the Subdivision; and

WHEREAS, the Board of Directors of Cotton Crossing Owners Association, Inc. (the "Association") is charged with the power and duty to administer and enforce the covenants and restrictions governing the Subdivision; and

WHEREAS, Article XVI, of the Declaration provides that the Property subject to the Declaration "may be withdrawn, by written instrument approved by the affirmative vote of the Members of the Association holding at least seventy-five percent (75%) of the total votes of each class of property and filed of record in the Official Public Records of Real Property of Comal County, Texas"; and

WHEREAS, at a meeting called for that purpose, at least seventy-five percent (75%) of the total votes of the Members of the Association for each class of property have approved the de-annexation of the property described on *Exhibit "A"* attached hereto;

NOW, THEREFORE, the Association, acting by and through its President, hereby makes and files this First Amendment to Master Declaration of Covenants, Conditions and Restrictions for Cotton Crossing Subdivision Effecting Withdrawal of Property (this "Amendment") and declares that the properties described on *Exhibit "A"* attached hereto have been withdrawn from the application and operation of the Declaration effective as of October 3, 2005.

The undersigned President of the Association certifies that approval of the withdrawal of these properties was approved by at least seventy-five percent (75%) of the total votes for each class of property as required by Article XVI of the Declaration at a meeting of the Association held on October 3, 2005.

Executed this 6th day of October, 2005.

**COTTON CROSSING OWNERS
ASSOCIATION, INC.**

By: 
Name: PERRY FORD
Its: President

THE STATE OF TEXAS §

COUNTY OF COMAL §

This instrument was acknowledged before me on October 6th, 2005,
by JERRY FORD, President of COTTON CROSSING OWNERS ASSOCIATION, INC., a Texas
corporation, on behalf of same and in the capacity herein stated.



Chris Delavan
Notary Public, State of Texas

EXHIBIT A

1. A 4.703 acre tract of land platted as Lots 1-5, Cotton Crossing Unit Three as per plat recorded in Volume 15, Page 153, Comal County Texas Map and Plat Records.
2. A 1.157 acre tract of land platted as Lot 1, Block 1, Cotton Crossing Unit 4, as per plat recorded in Volume 15, Page 106, Comal County, Texas Map and Plat Records.
3. A 4.594 acre tract of land platted as Lots 2, 3, 4 and 5, Block 1, Cotton Crossing Unit 4A, as per plat recorded in Volume 15, Page 232, Comal County, Texas Map and Plat Records.
4. A 9.496 acre tract of land, platted as Lots 1 and 2, Block 1, Cotton Crossing Unit Two PDD, as per plat recorded in Volume 14, Pages 148-149, Comal County, Texas Map and Plat Records.
5. An 11.967 acre tract of land situated in the City of New Braunfels, Comal County, Texas, being approximately 6.987 acres in the Henry Foster Survey No. 34, Abstract No. 154 and approximately 4.98 acres out of the A. P. Fuquay Survey No. 35, Abstract No. 155, Comal County, Texas, and being out of a 90.434 acre tract described in Doc# 9906004673 of the Official Public Records of Comal County, Texas, and all bearings referred to in this description are rotated to and referenced to a bearing of N 15° 14' 42" W between monumentation found along the East line of Cotton Crossing, Unit 4 and Cotton Crossing, Unit 4A (bearing basis GPS determined), said 11.967 acre tract of land surveyed under the supervision of Richard A. Goodwin, RPLS #4069, S. Craig Hollmig, Inc., and being more particularly described as follows:

BEGINNING: At a tack in lead found in concrete walk on the North side of Hamz Drive, for the Southeasterly corner of Lot 2, Cotton Crossing, Unit 4A, recorded in Volume 15, Page 232 of the Map and Plat Records of Comal County, Texas, for the South corner of this tract;

THENCE: With the Northeasterly line of Cotton Crossing, Unit 4A and Cotton Crossing, Unit 4, recorded in Volume 15, Page 100 of the Map and Plat Records of Comal County, Texas, N 15° 14' 42" W 1020.66 feet to a 1/4" iron pin found on the South line of a 4.017 acre Detention Basin Easement shown on a plat of Cotton Crossing recorded in Volume 13, Pages 260-261 of the Map and Plat Records of Comal County, Texas, for the North corner of Lot 5, Cotton Crossing, Unit 4A, for the West corner of this tract;

THENCE: With a South line of said 4.017 acre Detention Basin Easement, N 74° 41' 38" E 187.37 feet to a 1/4" iron pin set and N 57° 22' 05" E 51.36 feet to a 1/4" iron pin set in same, for the most Northerly corner of this tract;

THENCE: Severing the above referenced 90.434 acre tract, S 42° 43' 21" E 1005.98 feet to a 1/2" iron pin set and S 23° 28' 25" E 44.72 feet to a 1/2" iron pin set on the North line of Hanz Drive of Cotton Crossing, recorded in Volume 13, Pages 260-261 of the Map and Plat Records of Comal County, Texas, for a corner of this tract;

THENCE: Continuing with a Northerly line of Hanz Drive, in a curve to the left, having a radius of 15.0 feet, an arc length of 23.56 feet, and a chord bearing and distance of S 02° 56' 33" W 21.21 feet to a 1/2" iron pin set and S 42° 03' 37" W 45.50 feet to a 1/2" iron pin set at the beginning of a curve to the right;

THENCE: In a curve to the right, having a radius of 10.0 feet, an arc length of 15.71 feet, and a chord bearing and distance of S 02° 56' 33" W 14.14 feet to a point on a Fire Hydrant, for a corner of this tract;

THENCE: S 47° 56' 33" W 34.16 feet to a P.K. nail set in concrete walk at the beginning of a curve to the right;

THENCE: In a curve to the right, having a radius of 355.0 feet, an arc length of 265.46 feet, and a chord bearing and distance of S 69° 21' 54" W 259.32 feet to a P.K. nail set in a concrete walk at the beginning of a curve to the left;

THENCE: In a curve to the left, having a radius of 415.0 feet, an arc length of 117.58 feet, and a chord bearing and distance of S 82° 32' 48" W 117.19 feet to an "x" found in concrete walk, for a corner of this tract;

THENCE: Continuing with the North line of Hanz Drive, S 74° 47' 59" W 311.67 feet to the Point of Beginning and containing 11.967 acres of land, more or less.

6. A 5.078 acre tract of land situated in the City of New Braunfels, Comal County, Texas, being out of the A. P. Fugate Survey No. 35, Abstract No. 155, Comal County, Texas, and being out of and a part of a 90.434 acre tract described in Doc# 9906004673 of the Official Public Records of Comal County, Texas, and all bearings referred to in this description are based upon GPS Geodetic North, said 5.078 acre tract of land surveyed under the supervision of Richard A. Goodwin, RPLS #4069, S. Craig Hollmig, Inc., and being more particularly described as follows:

BEGINNING: At a $\frac{1}{2}$ " iron pin found at the intersection of the existing Southeast right-of-way line of Gruene Road and the West right-of-way line of a 1.889 acre tract dedicated as Gruene Road and recorded in Volume 10, Page 191 of the Map and Plat Records of Comal County, Texas, same being the Northern most corner of a 1.414 acre tract (Gruene Road Parcel #9 right-of-way) described in Doc# 200406047867 of the Official Public Records of Comal County, Texas, for a Northwesterly corner of this tract;

THENCE: With the Southeast line of Waterway Road, a Northwesterly line of the above referenced 90.434 acre tract, N $54^{\circ} 36' 35''$ E 448.96 feet to a $\frac{1}{2}$ " iron pin found for the West corner of that certain 1.258 acre tract described in Doc# 98060226694 of the Official Public Records of Comal County, Texas, for the most Northerly corner of this tract;

THENCE: With the Southwest line of said 1.258 acre tract, leaving Waterway Road, S $36^{\circ} 08' 07''$ E 297.10 feet to a $\frac{1}{2}$ " iron pin found for the South corner of said 1.258 acre tract, for a corner of this tract;

THENCE: Into the above referenced 90.434 acre tract, S $55^{\circ} 07' 57''$ W 157.98 feet to a $\frac{1}{2}$ " iron pin set for a corner of this tract and S $30^{\circ} 09' 49''$ E 177.82 feet to a $\frac{1}{2}$ " iron pin set on the Northerly line of a 4.017 acre Detention Basin Easement shown on a plat of Cotton Crossing recorded in Volume 13, Pages 260-261 of the Map and Plat Records of Comal County, Texas, for a corner of this tract;

THENCE: With a Northerly line of said 4.017 acre Detention Basin Easement, N $62^{\circ} 37' 43''$ W 67.67 feet to a $\frac{1}{2}$ " iron pin set, N $86^{\circ} 40' 47''$ W 93.46 feet to a $\frac{1}{2}$ " iron pin set, S $57^{\circ} 22' 05''$ W 233.64 feet to a $\frac{1}{2}$ " iron pin set and S $74^{\circ} 41' 38''$ W 341.29 feet to a $\frac{1}{2}$ " iron pin set at the intersection of the North line of said 4.017 acre Detention Basin Easement, with the Easterly line of the above referenced 1.414 acre tract, for the Southwest corner of this tract;

THENCE: Continuing with the East line of said 1.414 acre tract, in a curve to the right, having an arc length of 194.21 feet, a radius of 645.0 feet, and a chord bearing and distance of N $24^{\circ} 13' 01''$ E 193.48 feet to a $\frac{1}{2}$ " iron pin set;

THENCE: N $32^{\circ} 50' 54''$ E 100.06 feet to a $\frac{1}{2}$ " iron pin found in same at the beginning of a curve to the left;

THENCE: With said curve to the left, having a radius of 705.00 feet, an arc length of 76.58 feet, and a chord bearing and distance of N $29^{\circ} 45' 04''$ E 76.54 feet to a $\frac{1}{2}$ " iron pin set and N $05^{\circ} 03' 43''$ E 76.88 feet to the Point of Beginning and containing 5.078 acres of land, more or less.

Doc# 200506037954
Pages 5
18/06/2005 1:54PM
Official Records of
COMAL COUNTY
JOY STREATER
COUNTY CLERK
Fees \$32.00



Joy Streater