

## COMANCHE TRACE PH 2 SEC 3

### RESTRICTIONS

Volume 841, Page 47, Real Property Records of Kerr County, Texas; Volume 1081, Page 626; Volume 1092, Page 602; Volume 1159, Page 1; Volume 1175, Page 44, Real Property Records of Kerr County, Texas, BUT OMITTING ANY COVENANT OR RESTRICTION BASED ON RACE, COLOR, RELIGION, SEX, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons.

### OTHER EXCEPTIONS

- A perpetual non-participating royalty interest, reserved by Grantor as described in instrument from Carl D. Meek and wife, Rosemary Meek to Shelton Ranch Corporation, a Texas corporation, dated April 1, 1980, recorded in Volume 233, Page 302, Deed Records of Kerr County, Texas.
- Easements and all matters as per the Plat of Comanche Trace Phase 2 Section 3 recorded in Volume 7, Page 140, Plat Records of Kerr County, Texas.
- Annual assessments and/or current maintenance charges, Residents' easement to enjoy common area, and blanket easements as set forth in instrument notarized on August 29, 2000, recorded in Volume 1081, Page 626, Real Property Records of Kerr County, Texas.
- Water Rights evidenced by Certificate of Adjudication No. 18-2002, 2002A and 2004B and as amended, reserved by Grantor in deed {PR,"insert date of deed from developer",DT2,1}, and recorded in Volume {PR,"insert Volume number from deed out of developer",IN1,2}, Page {PR,"insert page number of deed out of developer",IN1,3}, Real Property Records of Kerr County, Texas.
- Amendment To The By-Laws Of Comanche Trace Ranch Community Association, Inc., dated July 2, 2002, recorded in Volume 1201, Page 321, Real Property Records of Kerr County, Texas.
- Any visible and/or apparent roadways or easements over or across the subject property.
- Rights Of Parties In Possession. (AS PER OWNER POLICY ONLY)

1964

0841-047

# Declaration of restrictions for part of the 712 acre tract of La Cumbre Executive Center and Ranch

The Declarant its assigns and successors agree that for the maintenance of property values and the enjoyment of 400 acres of the 712 acres comprising the western portion of the La Cumbre Executive Center and Ranch or The Shelton Ranch Tract I as set out in a deed to Farm Credit Bank recorded in Volume 637 Page 362 of the Real Property Records of Kerr County Texas and dated April 24, 1992. Said property is more particularly described in an instrument attached hereto, incorporated herein made a part hereof for all purposes and identified as Exhibit A.

*Declarant declares that the property above described shall be hereafter held, transferred, sold, conveyed, occupied, and enjoyed subject to the following covenants, conditions, restrictions, easements, charges, and liens hereinafter set forth, and shall hereafter apply to each lot or tract of land subdivided by declarant or its assigns of the above described property.*

To Wit:

1. No mobile homes, single or double wide, house trailer, pre-manufactured home of any kind shall be moved onto or assembled upon any tract of any size in the 709 acre parcel of land. Save and except as may exist on the date of this agreement.

2. No illegal, noxious or offensive activity shall be conducted on any tract that may be or may become an annoyance or nuisance.

Executed as of the 12th day of March, 1996

Declarant:

FARM CREDIT BANK OF TEXAS

By: AK

Steven H. Fowlkes, Vice President  
FCBT Special Assets

FILED FOR RECORD

at 3:47 o'clock P.M.

MAR 15 1996

PATRICIA DYE

Clerk County Court, Kerr County, Texas  
Mary Ann Medders Deputy

STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged before me on March 13, 1996 by Steven H. Fowlkes, Vice President of the Farm Credit Bank Of Texas, on behalf of said federal association.

~~After Recording Return To:~~

James M. Holbrook

999 East Basse Road, Suite 180

San Antonio, Texas 78209

LORI HARRIS

Notary Public, State of Texas

My Commission Expires

AUG 13, 1998

*Lori Harris*

*Filed by and return to:  
Kerr County, Abstract  
305 East Garner  
Kerrville, Texas 78028*

0841-048

**FIELD NOTES DESCRIPTION FOR 8.00 ACRES OF LAND OUT OF THE  
FORMER SHELTON RANCH ALONG STATE HIGHWAY NO. 173 AND  
F. M. HIGHWAY NO. 2771 IN KERR COUNTY, TEXAS**

SAVE AND EXCEPT

Being all of a certain tract or parcel of land containing 8.00 acres, more or less, out of William Watt Survey No. 64, Abstract No. 363 in Kerr County, Texas, part of a certain 712.38 acre tract conveyed as Tract I from Shelton Ranch Corporation to Farm Credit Bank of Texas by a General Warranty Deed executed the 24th day of April, 1992 and recorded in Volume 637 at Page 362 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

**BEGINNING** at a fence cornerpost marked with a found 1/2" iron stake for the north corner of the herein described tract, a reentrant corner of said Tract I and the west corner of a certain 101 acre tract conveyed from Harry Karger, et ux, to Hoyt H. Hamrick, et ux, by a deed recorded in Volume 80 at Page 627 of the Deed Records of Kerr County, Texas; which point bears approximately 5239 ft. N.45°E. and 6196 ft. N.45°W. from the south corner of William T. Crook Survey No. 63;

**THENCE**, along a fence with the common line between said Tract I and 101 acre tract S 45°03"E., 834.85 ft. to a 1/2" iron stake set for the east corner of the herein described tract;

**THENCE**, upon, over and across said Tract I, S 89°44'W., 1176.27 ft. to a 1/2" iron stake set in a fence for the west corner of the herein described tract;

**THENCE**, along said fence continuing upon, over and across said Tract I, N 44°01'E., 334.85 ft. to the PLACE OF BEGINNING.

I hereby certify that these field notes are an accurate description of the property contained therein as determined by a survey made on the ground under my supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all property corners are as stated. (Bearing basis = record bearing)

Date: this 12th day of March, 1996

*Lee C. Voelkel*

Lee C. Voelkel  
Registered Professional Land Surveyor No. 3909  
County Surveyor for Kerr County



AL-1470 *Real Property*  
VOL. *841* PG. *47*  
RECORDING DATE

MAR 15 1996

Provisions herein which restrict the sale, rental or use of the described property because of color or race is invalid and unenforceable under Federal Law THE STATE OF TEXAS )  
COUNTY OF KERR )  
I hereby certify that the instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Records of Real Property of Kerr County, Texas on

MAR 15 1996



*Patricia Dye*  
COUNTY CLERK, KERR COUNTY



*Patricia Dye*  
COUNTY CLERK, KERR COUNTY, TEXAS

RECORDER'S NOTE  
AT TIME OF RECORDATION INSTRUMENT FOUND  
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PRINT, COLOR OF PRINT OR INK, BACKGROUND OF  
PAPER, ILLEGIBILITY, CARBON OR PHOTO COPY, ETC.

FIELD NOTES DESCRIPTION FOR 290.90 ACRES OF LAND OUT  
OF THE FORMER SHELTON RANCH ALONG STATE HIGHWAY  
NO. 173 AND F. M. HIGHWAY NO. 2771 IN KERR COUNTY, TEXAS

SAVE AND EXCEPT

0841 049

Being all of a certain tract or parcel of land containing 290.90 acres, more or less, out of Original Patent Surveys in Kerr County, Texas as follows:

Survey No.	Survey	Abstract No	Acres
63	William T. Crook	116	107.83
64	William Watt	363	183.07

part of a certain 712.38 acre tract conveyed as Tract I from Shelton Ranch Corporation to Farm Credit Bank of Texas by a General Warranty Deed executed the 24th day of April, 1992 and recorded in Volume 637 at Page 362 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a fence cornerpost marked with a found  $\frac{1}{2}$ " iron stake in the southwest right-of-way line of State Highway No. 173 for the most easterly corner of the herein described tract and said Tract I, the northeast corner of The Woods, a subdivision of Kerr County according to the plat of record in Volume 4 Page 137 of the Plat Records of Kerr County, Texas; which point bears, approximately, 5735 ft. N.45°E. and 1540 ft. N.45°W. from the south corner of said Survey No. 63;

THENCE, along a fence with the common line between said Tract I and The Woods: S.87°52'W., 433.99 ft. to a fence anglepost; N.67°38'W., 1923.75 ft. to a fence cornerpost; for a reentrant corner of the herein described tract and Tract I, the northwest corner of The Woods; S.35°11'W., 781.92 ft. to a fence anglepost; and S.18°12'W., 1103.06 ft. to a  $\frac{1}{2}$ " iron stake found for the southwest corner of The Woods, the northerly northwest corner of The Woods Section Two, a subdivision of Kerr County according to the plat of record in Volume 4 Page 176 of the Plat Records of Kerr County, Texas;

THENCE, continuing along said fence with the common line between said Tract I and The Woods Section Two: S.18°12'W., 1511.71 ft. to a fence anglepost for the southeast corner of the herein described tract and Tract I, a reentrant corner of The Woods Section Two; and S.82°36'W., 1521.62 ft. to a fence cornerpost in the northeast right-of-way line of F. M. Highway No. 2771 for the most southerly corner of the herein described tract and Tract I, the westerly northwest corner of The Woods Section Two;

THENCE, along or near a fence with the southwest line of said Tract I and the northeast right-of-way line of F. M. Highway No. 2771: N.16°59'E., 423.22 ft. to a concrete right-of-way marker found at the beginning of a 06°00' curve to the left; and 1508.92 ft. along the arc of said curve to the northeast corner of the herein described tract and Tract I, the northeast corner of the herein described tract; and 1356.81 ft. to a  $\frac{1}{2}$ " iron stake set near a fence cornerpost for the southwest corner of the herein described tract;

THENCE, along a fence upon, over and across said Tract I, all calls to fence angleposts marked with set  $\frac{1}{2}$ " iron stakes: N.10°23'E., 99.25 ft.; N.14°27'E., 1908.21 ft.; N.55°10'W., 18.74 ft.; N.10°23'W., 29.47 ft.; N.10°58'E., 21.63 ft.; N.15°35'E., 577.77 ft.; N.33°04'E., 437.73 ft.; N.44°31'E., 584.43 ft. to a set  $\frac{1}{2}$ " iron stake for the northwest corner of the herein described tract; and N.89°44'E., not along a fence, 1176.27 ft. to a  $\frac{1}{2}$ " iron stake set in a fence the northeast line of said Tract I and southwest line of a certain 101 acre tract conveyed from Harry Karger, et ux, to Hoyt H. Hamrick, et ux, by a deed recorded in Volume 80 Page 627 of the Deed Records of Kerr County, Texas for a northerly corner of the herein described tract;

THENCE, along said fence with the common line between Tract I and 101 acre tract: S.44°58'E., 1650.72 ft. to a fence cornerpost marked with a found  $\frac{1}{2}$ " iron stake; and N.45°04'E., 1109.46 ft. to a fence cornerpost marked with a found  $\frac{1}{2}$ " iron stake for the northeast corner of the herein described tract and Tract I, the west corner of a certain 9.35 acre tract conveyed from Fred W. Stein to Anna Mae Stein by a deed recorded in Volume 112 at Page 409 of the Deed Records of Kerr County, Texas;

THENCE, along a fence with the common line between said Tract I and 9.35 acre tract: S.18°32'E., at approximately 856 ft. passing the south corner of 9.35 acre tract, the west corner of a certain 9.35 acre tract conveyed from Fred W. Stein to Lorena S. Paris by a deed recorded in Volume 112 at Page 408 of the Deed Records of Kerr County, Texas, then continuing with the common line between said Tract I and Paris 9.35 acre tract for a total distance of 1830.35 ft. to a fence cornerpost for a reentrant corner of the herein described tract and Tract I, the south corner of Paris 9.35 acre tract; and N.87°45'E., continuing with the common line between Tract I and Paris 9.35 acre tract 433.19 ft. to a fence cornerpost in the said southwest right-of-way line of State Highway No. 173 for an easterly corner of the herein described tract and Tract I, the east corner of Paris 9.35 acre tract;

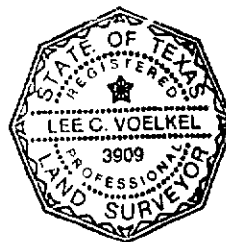
THENCE, along a fence with the east line of said Tract I and southwest right-of-way line of State Highway No. 173, S.18°53'E., 259.53 ft. to the PLACE OF BEGINNING.

I hereby certify that these field notes and accompanying plat are accurate descriptions of the property contained therein as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all property corners are as stated

Dated this 20th day of February, 1996

*Lee C. Voelkel*

Lee C. Voelkel  
Registered Professional Land Surveyor No. 3909  
County Surveyor for Kerr County, Texas



0944-050

Being all that certain tract or parcel of land lying and being situated in the County of Kerr, State of Texas, comprising a total of 712.38 acres of land, more or less, being approximately 80.27 acres out of Survey No. 66, William Watt, Abstract No. 365, 257.49 acres, more or less, out of Survey No. 65, William Watt, Abstract No. 164, 266.44 acres, more or less, out of Survey No. 64, William Watt, Abstract No. 363, and 108.18 acres, more or less, out of Survey No. 63, William T. Crook, Abstract No. 116, and being part of a certain 1326.40 acre tract of land conveyed from Carl D. Meek, et ux to SHELTON RANCH CORPORATION, a Texas corporation, by deed dated 1 April, 1980 and recorded in Volume 233, Page 302, et seq. Deed Records of Kerr County, Texas, and being further described by metes and bounds as follows, to-wit:

BEGINNING at a 2-way fence corner post marking the south corner of said Survey No. 66, William Watt, from which a 24" L.O. bears S 76° E, 4.6 feet;

THENCE with fence and SW line of Survey No. 66, N 44° 42' W, 1274.05 feet to a fence corner post;

THENCE with fence from corner post to corner post, as follows:

N 44° 18' E, 1671.68 feet;  
N 44° 43' E, 1333.14 feet;  
S 18° 48' E, 899.11 feet;  
S 32° 00' E, 804.87 feet;  
S 11° 35' W, 695.25 feet;  
S 79° 11' E, 957.93 feet; crossing road  
S 22° 42' E, 190.73 feet;  
S 57° 28' E, 257.05 feet; and  
S 68° 30' E, 350.37 feet;

THENCE with fence and extension thereof, S 17° 19' E, 658.13 feet to a 1/2" iron stake in fence;

THENCE with fence, as follows:

S 44° 30' W, 26.74 feet;  
S 44° 59' E, 2486.04 feet;  
N 45° 26' E, 416.94 feet;  
N 44° 59' E, 692.72 feet;  
S 18° 35' E, 855.85 feet; iron stake  
S 18° 33' E, 974.62 feet; and  
N 87° 47' E, 433.12 feet to a fence corner post in the west

R.O.W. line of F.M. Highway No. 689, from which a concrete R.O.W. marker bears N 16° 53' W, 209.91 feet;

THENCE with said west R.O.W. line of highway, S 18° 53' E, 259.83 feet to a fence corner post;

THENCE with fence from corner post to corner post, as follows:

S 87° 57' W, 433.64 feet;  
N 67° 38' W, 1921.97 feet;  
S 35° 06' W, 782.12 feet;  
S 18° 10' W, 2614.38 feet; and

S 82° 33' W, 1520.52 feet to a fence corner post in the east R.O.W. line of F.M. Highway No. 2771, from which a concrete R.O.W. marker bears S 16° 57' W, 199.74 feet;

THENCE with the east R.O.W. line of said highway, N 16° 57' E, 423.45 feet to a concrete R.O.W. marker being the point of curvature of a circular curve to the left;

THENCE with said highway line along the arc of said circular curve to the left having a central angle of  $94^{\circ} 57'$ , a radius of 955.13 feet, a distance of 1582.79 feet;

THENCE S  $15^{\circ} 45'$  W, crossing highway, 362.49 feet to a point in fence and Turtle Creek;

THENCE up Turtle Creek, N  $87^{\circ} 19'$  W, 558.96 feet to a point;

THENCE N  $34^{\circ} 36'$  W, at 112.80 feet pass  $1/2"$  iron stake found in the SE R.O.W. line of highway, and continuing in all 1311.57 feet to a  $1-1/4"$  pipe;

THENCE with fence from corner post to corner post, as follows:

N  $34^{\circ} 51'$  W, 391.46 feet;

N  $30^{\circ} 07'$  W, 274.18 feet;

N  $41^{\circ} 13'$  E, 234.34 feet;

N  $13^{\circ} 10'$  W, 144.00 feet;

N  $29^{\circ} 26'$  W, 1434.49 feet; and

N  $45^{\circ} 27'$  W, 505.47 feet to a fence corner post in the NW line of aforesaid Survey No. 65;

THENCE with fence and NW line of Survey No. 65, N  $44^{\circ} 50'$  E, 1591.98 feet to the place of BEGINNING.

THE STATE OF TEXAS  
COUNTY OF KERR

I, Paul L. Bushong, a registered professional engineer and registered public surveyor, on the basis of my knowledge, information, and belief, hereby certify that as a result of a survey made on the ground under my supervision to the normal standards of care of professional land surveyors practicing in Texas, this is an accurate representation of the property described herein.

*Paul L. Bushong*

Paul L. Bushong

R.P.E. No. 38177

R.P.S. No. 2340

January 29, 1991



Upon recording, please return to:  
David L. Jackson, Esquire  
Wallace, Jackson, Machann,  
Williams & Douglass  
820 Main Street, Suite 100  
Kerrville, Texas 78028

VOL. 1081 PAGE 0626

**06918**  
**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**  
**FOR**

**COMANCHE TRACE RANCH**

**FILED FOR RECORD**  
at 4:36 o'clock P.....M

AUG 29 2000

**JANNETT RIEBER**  
Clerk County Court, Kerr County, Texas  
*[Signature]*

**HYATT & STUBBLEFIELD, P.C.**  
Attorneys and Counselors  
1200 Peachtree Center South Tower  
225 Peachtree Street, N.E.  
Atlanta, Georgia 30303

\$227  
\$5  
\$1

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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
COMANCHE TRACE RANCH**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made this \_\_\_\_ day of \_\_\_\_\_, 2000, by Comanche Trace Ranch and Golf Club, L.L.P., a Colorado limited liability limited partnership, qualified to do business in Texas ("Declarant").

**PART ONE: INTRODUCTION TO THE COMMUNITY**

*Comanche Trace Ranch and Golf Club, L.L.P., as the developer of Comanche Trace Ranch, has established this Declaration to provide a governance structure and a flexible system of standards and procedures for the overall development, expansion, administration, maintenance and preservation of Comanche Trace Ranch as a master planned community.*

**Article I      Creation of the Community**

**1.1.      Purpose and Intent.**

Declarant, as the owner of the real property described in Exhibit "A," intends by Recording this Declaration to establish a general plan of development for the planned community known as Comanche Trace Ranch. This Declaration provides a flexible and reasonable procedure for Comanche Trace Ranch's future expansion and provides for its overall development, administration, maintenance and preservation. An integral part of the development plan is the creation of Comanche Trace Ranch Community Association, Inc., an association comprised of all owners of real property in Comanche Trace Ranch, to own, operate and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the other Governing Documents referenced in this Declaration.

This document does not and is not intended to create a condominium under Texas law.

**1.2.      Binding Effect.**

All property described in Exhibit "A," and any additional property which is made a part of Comanche Trace Ranch in the future by Recording one or more Supplemental Declarations, shall be owned, conveyed and used subject to all of the provisions of this Declaration, which shall run with the title to such property. This Declaration shall be binding upon all Persons having any right, title, or interest in any portion of Comanche Trace Ranch, their heirs, successors, successors-in-title, and assigns.

This Declaration, as it may be amended, shall remain in effect and shall be enforceable by Declarant, the Association, any Owner, and their respective legal representatives, heirs, successors, and assigns, for a term of 20 years from the date this Declaration is Recorded. After

such time, this Declaration shall be extended automatically for successive periods of 10 years each, unless an instrument signed by a majority of the then Owners has been Recorded within the year preceding any extension, agreeing to terminate this Declaration, in which case it shall terminate as of the date specified in such instrument. Notwithstanding this, if any provision of this Declaration would be unlawful, void, or voidable by reason of any Texas law restricting the period of time that covenants on land may be enforced, such provision shall expire 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

1.3. Governing Documents.

Comanche Trace Ranch's Governing Documents consist of:

- this Declaration and any Supplemental Declarations applicable to portions of Comanche Trace Ranch;
- the Association's Articles of Incorporation and By-Laws;
- the Restrictions and Rules described in Article III;
- the Architectural Guidelines described in Article IV; and
- such resolution's as the Association's Board of Directors' may adopt;

all as they may be amended.

Some Neighborhoods within Comanche Trace Ranch may be subject to additional covenants, restrictions and easements, which a Neighborhood Association may administer. In such case, if there is a conflict between or among the Governing Documents and any such additional covenants or restrictions, or the governing documents or policies of any such Neighborhood Association, the Governing Documents shall control.

Nothing in this Section shall preclude any Supplemental Declaration or other Recorded covenants applicable to any portion of Comanche Trace Ranch from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration and, in such case, the more restrictive shall control. The Association may, but shall not be required to, enforce any such covenants, restrictions or other instruments applicable to any Neighborhood.

The Governing Documents apply to all Owners and occupants of property within Comanche Trace Ranch, as well as to their respective tenants, guests and invitees. If a Unit is leased, the lease shall provide that the tenant and all occupants of the leased Unit are bound by and obligated to comply with the Governing Documents.

If any court should determine that any provision of this Declaration is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision.

Throughout the Governing Documents there are diagrams to illustrate the concepts discussed and aid in the reader's comprehension. Such diagrams are for illustrative purposes only. In the event of a conflict between any diagram and the text of the Governing Documents, the text shall control.

Diagram 1.1 identifies the various Governing Documents and their functions.

GOVERNING DOCUMENTS	
Articles of Incorporation _____ (filed with the Secretary of State of Texas)	establish the Association as a non-profit corporation under Texas law
By-Laws _____ (the Board of Directors adopts)	govern the Association's internal affairs, such as voting, elections, meetings, etc.
Declaration _____ (recorded in Public Records)	creates obligations which are binding upon the Association and all present and future owners of property in Comanche Trace Ranch
Supplemental Declaration _____ (recorded in Public Records)	adds property to Comanche Trace Ranch; <i>may</i> create easements and impose additional obligations or restrictions on such property
Architectural Guidelines _____ (Declarant adopts)	establish architectural standards and guidelines for improvements and modifications to Units, including structures, landscaping and other items on Units
Restrictions and Rules _____ (Board or Voting Members may adopt; initial set attached as Exhibit "C")	govern use of property, activities, and conduct within Comanche Trace Ranch
Board Resolutions _____ (Board adopts)	establish rules, policies and procedures for internal governance and Association activities, regulate operation and use of Common Area

Diagram 1.1 - Governing Documents

## Article II Concepts and Definitions

The terms used in the Governing Documents shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms shall be defined as set forth below.

"Architectural Guidelines": The guidelines and standards for architecture, design, construction, landscaping and exterior items on Units adopted pursuant to Article IV, as they may be amended.

**"Area of Common Responsibility":** The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, or other applicable covenants, contracts, or agreements.

**"Articles":** Comanche Trace Ranch Community Association, Inc.'s Articles of Incorporation, filed with the Secretary of State of Texas, as they may be amended.

**"Association":** Comanche Trace Ranch Community Association, Inc., a Texas nonprofit corporation, its successors or assigns.

**"Base Assessment":** Assessments levied on all Units subject to assessment under Article VIII to fund Common Expenses for the general benefit of all Units, as determined in accordance with Section 8.1.

**"Board of Directors" or "Board":** The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under Texas corporate law.

**"Builder":** Any Person who purchases one or more Units for the purpose of constructing improvements for later sale to consumers, or who purchases one or more parcels of land within Comanche Trace Ranch for further subdivision, development, and/or resale in the ordinary course of its business.

**"By-Laws":** The By-Laws of Comanche Trace Ranch Community Association, Inc., as they may be amended. A copy of the initial By-Laws is attached to this Declaration as Exhibit "D."

**"Class "B" Control Period":** The period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Board as provided in Article III of the By-Laws. The Class "B" Control Period shall terminate on the first to occur of the following:

(a) when 75% of the total number of Units permitted by the Master Plan for the property described in Exhibits "A" and "B" have certificates of occupancy issued thereon and have been conveyed to Class "A" Members other than Builders;

(b) December 31, 2025; or

(c) when, in its discretion, the Class "B" Member so determines.

**"Comanche Trace Ranch":** The real property described in Exhibit "A," together with such additional property as is subjected to this Declaration in accordance with Article IX.

**"Common Area":** All real and personal property, including easements, which the Association owns, leases, or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners. The term shall include the Limited Common Area, as defined below.

**"Common Expenses":** The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents. Common Expenses shall not include any expenses incurred during the Class "B" Control Period for initial development or other original construction costs unless Voting Members representing a majority of the total Class "A" vote of the Association approve. Payments due under leases of capital improvements such as street lights shall not be considered an initial development or original construction cost.

**"Community-Wide Standard":** The standard of conduct, maintenance, or other activity generally prevailing at Comanche Trace Ranch, or the minimum standards established pursuant to the Architectural Guidelines, Restrictions and Rules, and Board resolutions, whichever is a higher standard. Declarant shall establish initially such standard and it may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and desires within Comanche Trace Ranch change.

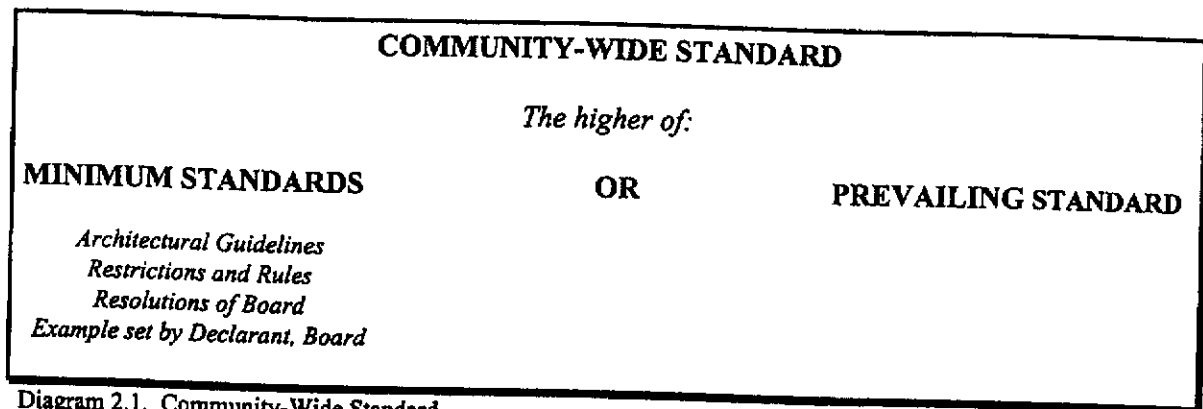


Diagram 2.1. Community-Wide Standard

**"Covenant to Share Costs":** The Declaration of Easements and Covenant to Share Costs which Declarant has Recorded creating easements for the benefit of the Association and/or the present and future owners of the subject real property and providing for the sharing of the costs of maintaining property described in that document.

**"Declarant":** Comanche Trace Ranch and Golf Club, L.L.L.P., a Colorado limited liability limited partnership, qualified to do business in Texas, or any successor or assign who takes title to any portion of the property described in Exhibit "A" or "B" for the purpose of development and/or sale and who is designated as Declarant in a Recorded instrument that the immediately preceding Declarant executes.

**"Governing Documents":** A collective term referring to this Declaration and any applicable Supplemental Declaration, the By-Laws, the Articles, the Architectural Guidelines, the Restrictions and Rules, and Board resolutions, all as they may be amended.

**"Limited Common Area":** A portion of the Common Area primarily benefiting one or more, but less than all, Neighborhoods, as more particularly described in Article XII.

**"Master Plan"**: The land use plan for the development of Comanche Trace Ranch prepared by PBS&J of Austin, Texas and approved by the appropriate zoning authority, as it may be amended, which includes all of the property described in Exhibit "A" and all or a portion of the property described in Exhibit "B." Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the omission of property described in Exhibit "B" from the Master Plan bar its later submission to this Declaration as provided in Article IX.

**"Member"**: A Person subject to membership in the Association pursuant to Section 6.2.

**"Mortgage"**: A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit. The term "Mortgagee" shall refer to a beneficiary or holder of a Mortgage.

**"Neighborhood"**: A group of Units designated as a separate Neighborhood pursuant to Section 6.4 for purposes of sharing Limited Common Areas and/or receiving other benefits or services from the Association which are not provided to all Units, and/or for the purpose of electing Voting Members. A Neighborhood may be comprised of more than one housing type and may include noncontiguous parcels of property. If the Association provides benefits or services to less than all Units within a particular Neighborhood, then the benefited Units shall constitute a sub-Neighborhood for purposes of determining and levying Neighborhood Assessments for such benefits or services.

Where the context permits or requires, the term Neighborhood shall also refer to the Neighborhood Committee (established in accordance with the By-Laws) or Neighborhood Association, if any, having concurrent jurisdiction over the property within the Neighborhood. Neighborhood boundaries may be established and modified as provided in Section 6.4.

**"Neighborhood Assessments"**: Assessments levied against the Units in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses, as described in Section 8.2.

**"Neighborhood Association"**: A condominium association or other owners association, if any, having jurisdiction over any Neighborhood concurrent with (but subject to) the jurisdiction of the Association. Nothing in this Declaration shall require the creation of any Neighborhood Associations.

**"Neighborhood Expenses"**: The actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners within a particular Neighborhood or Neighborhoods, which may include a reasonable reserve for capital repairs and replacements and a reasonable administrative charge, as may be authorized pursuant to this Declaration or in the Supplemental Declaration(s) applicable to such Neighborhood(s).

**"Owner"**: One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a Recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

**"Person":** A natural person, a corporation, a partnership, a trustee, or any other legal entity.

**"Private Amenities" or "Private Amenity":** Certain real property and any improvements and facilities thereon located adjacent to, in the vicinity of, or within Comanche Trace Ranch, which are privately owned and operated by Persons other than the Association for recreational and related purposes, on a club membership basis or otherwise, and shall include, without limitation, the golf course, if any, which is so located and all related and supporting facilities and improvements.

**"Record," "Recording," or "Recorded":** The filing of a legal instrument in the Public Real Estate Records of Kerr County, Texas, or such other place as may be designated as the official location for recording deeds, plats, and similar documents affecting title to real estate.

**"Restrictions and Rules":** The initial restrictions and rules set forth in Exhibit "C," as they may be supplemented, modified, and repealed pursuant to Article III.

**"Special Assessment":** Assessments levied in accordance with Section 8.4.

**"Specific Assessment":** Assessments levied in accordance with Section 8.5.

**"Supplemental Declaration":** An instrument Recorded pursuant to Article IX which subjects additional property to this Declaration, designates Neighborhoods, and/or creates or imposes additional easements, restrictions and obligations on the land described in such instrument. The term shall also refer to an instrument Declarant Records pursuant to Section 6.4(c) which designates Voting Groups.

**"Unit":** A portion of Comanche Trace Ranch, whether improved or unimproved, which may be independently owned and is intended for development, use, and occupancy as an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. In the case of a structure containing multiple dwellings, each dwelling shall be deemed to be a separate Unit.

In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to be a single Unit until such time as a Recorded plat subdivides all or a portion of the parcel. Thereafter, the portion encompassed on such plat shall contain the number of Units determined as set forth in the preceding paragraph. Any portion not encompassed on such plat shall continue to be treated in accordance with this paragraph.

Units may be combined or further subdivided, and boundary lines of Units may be changed, only by Recording of a plat or other legal instrument further subdividing or resubdividing the parcel of property (which subdivision shall be subject to such other restrictions as may be set forth in this Declaration or rules of the Association). In the absence of Recording such a legal instrument, ownership of adjacent Units by the same Owner shall not permit such

Units to be treated as a single Unit for purposes of voting and assessment, notwithstanding that such Units may be improved with a single dwelling.

**"Voting Group":** One or more Voting Members who vote on a common slate for election of Board members, as more particularly described in Section 6.4(c) or, if the context so indicates, the group of Members whose Units are represented by such Voting Members.

**"Voting Member":** The representative selected by the Class "A" Members within each Neighborhood pursuant to Section 6.4(b) to cast the Class "A" votes attributable to their Units on all matters requiring a vote of the membership (except as otherwise specifically provided in this Declaration and in the By-Laws). The term "Voting Member" shall also refer to alternate Voting Members acting in the absence of the Voting Member and any Owners authorized personally to cast the votes for their respective Units pursuant to Section 6.4(b).

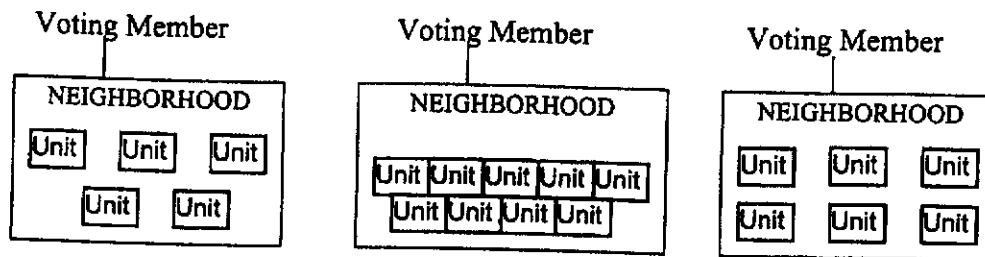


Diagram 2.2 - Voting Members

[Note: Number of Units shown in each Neighborhood is for demonstrative purposes only. Actual numbers may vary from one Neighborhood to another and could be substantially more or less than number of Units shown. Refer to Section 6.4(b) and (c) for a more detailed explanation of representative voting.]

## PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS

*The standards for use and conduct, maintenance, architecture, landscaping and other aesthetic matters at Comanche Trace Ranch are what give the community its identity and make it a place that people want to call "home." Each Owner and resident in upholding such standards can take pride in the results of that common effort. This Declaration establishes procedures for adopting, modifying, applying, and enforcing such standards while providing the flexibility for the community standards to evolve as Comanche Trace Ranch changes and grows over time.*

### Article III Use and Conduct

#### 3.1. Framework for Regulation.

The Governing Documents establish, as part of the general plan of development for Comanche Trace Ranch, a framework of affirmative and negative covenants, easements, and restrictions which govern Comanche Trace Ranch. Within that framework, the Board and the Members must have the ability to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends, and technology. Therefore, this Article establishes procedures for modifying and expanding the initial Restrictions and Rules set forth in Exhibit "C." This

Article is not intended to apply to rules and regulations relating to use and operation of the Common Area which the Board may adopt by resolution pursuant to Section 7.1(c), nor to administrative policies which the Board may adopt to interpret, define or implement the Restrictions and Rules.

### 3.2. Rule Making Authority.

(a) Subject to the terms of this Article and the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules. The Board shall send notice to all Owners concerning any proposed action at least five business days prior to the Board meeting at which such action is to be considered. Voting Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

Such action shall become effective, after compliance with subsection (c) below, unless Voting Members representing more than 50% of the total Class "A" votes in the Association and the Class "B" Member, if any, disapprove such action at a meeting. The Board shall have no obligation to call a meeting of the Voting Members to consider disapproval except upon receipt of a petition of the Voting Members as required for special meetings in the By-Laws. Upon such petition of the Voting Members prior to the effective date of any Board action under this Section 3.2(a), the proposed action shall not become effective until after such meeting is held, and then subject to the outcome of such meeting.

(b) Alternatively, Voting Members, representing more than 50% of the total Class "A" votes in the Association at an Association meeting duly called for such purpose, may vote to adopt rules which modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules then in effect. Such action shall require approval of the Class "B" Member, if any.

(c) Prior to any action taken under this Section becoming effective, the Board shall send a copy of the new rule or explanation of any changes to the Restrictions and Rules to each Owner. The effective date shall be not less than 30 days following distribution to Owners. The Association shall provide, without cost, a copy of the Restrictions and Rules then in effect to any requesting Member or Mortgagee.

(d) No action taken under this Article shall have the effect of modifying, repealing or expanding the Architectural Guidelines or any provision of this Declaration other than the initial Restrictions and Rules set forth in Exhibit "C." In the event of a conflict between the Architectural Guidelines and the Restrictions and Rules, the Architectural Guidelines shall control.

(e) The procedures required under this Section 3.2 shall not apply to the enactment and enforcement of administrative rules and regulations governing use of the Common Area unless the Board chooses in its discretion to submit to such procedures. Examples of such administrative rules and regulations shall include, but not be limited to, hours of operation of a recreational facility, speed limits on private roads, and the method of allocating or reserving use of a facility (if permitted) by particular individuals at particular times.

All Owners are given notice that use of their Units and the Common Area is limited by the Restrictions and Rules as amended, expanded and otherwise modified from time to time. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit can be affected by this provision and that the Restrictions and Rules may change from time to time. All purchasers of Units are on notice that the Association may have adopted changes. Copies of the current Restrictions and Rules may be obtained from the Association.

3.4. Protection of Owners and Others.

Except as may be set forth in this Declaration (either initially or by amendment) or in the initial Restrictions and Rules set forth in Exhibit "C," all Restrictions and Rules shall comply with the following provisions:

(a) Similar Treatment. Similarly situated Owners shall be treated similarly; however, the Restrictions and Rules may vary by Neighborhood.

(b) Displays. The rights of Owners to display religious and holiday signs, symbols, and decorations inside structures on their Units of the kinds normally displayed in dwellings located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt time, place, and manner restrictions with respect to displays visible from outside the dwelling.

No rules shall regulate the content of political signs; however, rules may regulate the time, place and manner of posting such signs (including design criteria).

(c) Household Composition. No rule shall interfere with the freedom of Owners to determine the composition of their households, except that the Association shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Unit on the basis of the size and facilities of the Unit and its fair use of the Common Area.

(d) Activities Within Dwellings. No rule shall interfere with the activities carried on within the confines of dwellings, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance.

(e) Allocation of Burdens and Benefits. No rule shall alter the allocation of financial burdens among the various Units or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Area available, from adopting generally applicable rules for use of Common Area, or from denying use privileges to

those who are delinquent in paying assessments, abuse the Common Area, or violate the Governing Documents. This provision does not affect the right to increase the amount of assessments as provided in Article VIII.

(f) Alienation. No rule shall prohibit leasing or transfer of any Unit, or require consent of the Association or Board for leasing or transfer of any Unit; provided, the Association or the Board may require a minimum lease term of up to 12 months. The Association may require that Owners use lease forms approved by the Association.

(g) Abridging Existing Rights. No rule shall require an Owner to dispose of personal property that was in or on a Unit prior to the adoption of such rule if such personal property was in compliance with all rules previously in force. This exemption shall apply only during the period of such Owner's ownership of the Unit, and shall not apply to subsequent Owners who take title to the Unit after adoption of the rule.

(h) Reasonable Rights to Develop. No rule or action by the Association or Board shall unreasonably impede Declarant's right to develop Comanche Trace Ranch.

(i) Interference with Private Amenities. No rule or action by the Association shall interfere with the use or operation of any Private Amenity.

The limitations in subsections (a) through (g) of this Section 3.4 shall only limit rulemaking authority exercised under Section 3.2; they shall not apply to amendments to this Declaration adopted in accordance with Article XX.

#### **Article IV    Architecture and Landscaping**

##### **4.1.    General**

No structure or thing shall be placed, erected, or installed upon any Unit and no improvements or other work (including staking, clearing, excavation, grading and other site work, exterior alterations of existing improvements, or planting or removal of landscaping) shall take place within Comanche Trace Ranch, except in compliance with this Article and the Architectural Guidelines.

No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. Any Owner may remodel, paint or redecorate the interior of his or her Unit without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structure shall be subject to approval.

All dwellings constructed on any portion of Comanche Trace Ranch shall be designed by and built in accordance with the plans and specifications of a licensed architect unless Declarant or its designee otherwise approves in its sole discretion.

This Article shall not apply to Declarant's activities, nor to activities of the Association during the Class "B" Control Period.

(a) By Declarant. Each Owner, by accepting a deed or other instrument conveying any interest in any portion of Comanche Trace Ranch, acknowledges that, as the developer of Comanche Trace Ranch and as an owner of portions of Comanche Trace Ranch as well as other real estate within the vicinity of Comanche Trace Ranch, Declarant has a substantial interest in ensuring that the improvements within Comanche Trace Ranch enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market, sell, or lease its property. Therefore, each Owner agrees that no activity within the scope of this Article shall be commenced on such Owner's Unit unless and until Declarant or its designee has given its prior written approval for such activity, which approval may be granted or withheld in the Declarant's or its designee's sole discretion.

In reviewing and acting upon any request for approval, Declarant or its designee shall be acting solely in Declarant's interest and shall owe no duty to any other Person. Declarant's rights reserved under this Article shall continue so long as Declarant owns any portion of Comanche Trace Ranch or any real property adjacent to Comanche Trace Ranch, unless earlier terminated in a written instrument which Declarant has executed and Recorded.

Declarant may, in its sole discretion, designate one or more Persons from time to time to act on its behalf in reviewing applications hereunder.

Declarant may from time to time, but shall not be obligated to, delegate all or a portion of its reserved rights under this Article to (i) an architectural review committee appointed by the Board of Directors (the "ARC"), or (ii) a committee comprised of architects, engineers or other persons who may or may not be Members of the Association. Any such delegation shall be in writing specifying the scope of responsibilities delegated and shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (ii) Declarant's right to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction of the foregoing entities shall be limited to such matters as Declarant specifically delegates to them.

(b) Architectural Review Committee. Upon delegation by Declarant or upon expiration or termination of Declarant's rights under this Article, the Association, acting through the ARC, shall assume jurisdiction over architectural matters. The ARC, when appointed, shall consist of at least three, but not more than seven, persons who shall serve and may be removed and replaced in the Board's discretion. The members of the ARC need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, who may be compensated in such manner and amount if any, as the Board may establish.

Unless and until such time as Declarant delegates all or a portion of its reserved rights to the ARC or Declarant's rights under this Article terminate, the Association shall have no jurisdiction over architectural matters.

(c) Fees; Assistance. For purposes of this Article, the entity having jurisdiction in a particular case shall be referred to as the "Reviewer." The Reviewer may establish and charge reasonable fees for review of applications and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. Declarant and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board may include the compensation of such persons in the Association's annual operating budget.

#### 4.3. Guidelines and Procedures.

(a) Architectural Guidelines. Declarant may prepare the initial Architectural Guidelines, which may contain general provisions applicable to all of Comanche Trace Ranch as well as specific provisions which vary from Neighborhood to Neighborhood. The Architectural Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the Reviewer in considering applications. The Architectural Guidelines are not the exclusive basis for decisions of the Reviewer and compliance with the Architectural Guidelines does not guarantee approval of any application.

Declarant shall have sole and full authority to amend the Architectural Guidelines as long as it owns any portion of or has a right to expand Comanche Trace Ranch pursuant to Section 9.1, notwithstanding a delegation of reviewing authority to the ARC, unless Declarant also delegates the power to amend to the ARC. Upon termination or delegation of Declarant's right to amend, the ARC shall have the authority to amend the Architectural Guidelines with the consent of the Board.

Any amendments to the Architectural Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Architectural Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Architectural Guidelines less restrictive.

The Reviewer shall make the Architectural Guidelines available to Owners and Builders who seek to engage in development or construction within Comanche Trace Ranch. In Declarant's discretion, such Architectural Guidelines may be Recorded, in which event the Recorded version, as it may unilaterally be amended from time to time, shall control in the event of any dispute as to which version of the Architectural Guidelines was in effect at any particular time.

(b) Procedures. Except as otherwise specifically provided in the Architectural Guidelines, no activities shall commence on any portion of Comanche Trace Ranch until an application for approval has been submitted to and approved by the Reviewer. The application and approval process shall apply to all Owners, including any Owner who rebuilds his or her home or any other improvements on the Unit due to destruction. Such application shall include plans and specifications showing site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction, as applicable. The Architectural Guidelines and the Reviewer may

require the submission of such additional information as may be reasonably necessary to consider any application.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements. The Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and such determinations shall not be subject to review so long as made in good faith and in accordance with the procedures set forth herein.

The Reviewer shall make a determination on each application within 30 days after receipt of a completed application and all required information. The Reviewer may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

Until expiration of Declarant's rights under this Article, the ARC shall notify Declarant in writing within three business days after the ARC has approved any application within the scope of matters delegated to the ARC by Declarant. The notice shall be accompanied by a copy of the application and any additional information which Declarant may require. Declarant shall have 10 days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the ARC.

The Reviewer shall notify the applicant in writing of the final determination on any application within five days thereafter or, with respect to any determination by the ARC subject to Declarant's veto right, within five days after the earlier of: (i) receipt of notice of Declarant's veto or waiver thereof; or (ii) expiration of the 10-day period for exercise of Declarant's veto. In the case of disapproval, the Reviewer may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

In the event that the Reviewer fails to respond in a timely manner, approval shall be deemed to have been given, subject to Declarant's right to veto pursuant to this Section. However, no approval, whether expressly granted or deemed granted, shall be inconsistent with the Architectural Guidelines unless a written variance has been granted pursuant to Section 4.5. Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U. S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the applicant.

If construction does not commence on a project for which plans have been approved within two years after the date of approval, such approval shall be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing any activities. Prior to commencement of construction activities, the Owner of the Unit, and/or the Owner's general contractor, shall submit a deposit to the Association, in the amount set forth in the Architectural Guidelines. Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed within one year of commencement unless otherwise specified in the

notice of approval or unless the Reviewer grants an extension in writing, which it shall not be obligated to do. If approved work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant or any aggrieved Owner.

The Reviewer may, by resolution, exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

#### 4.4. No Waiver of Future Approvals.

Each Owner acknowledges that the persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features until work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Reviewer may refuse to approve similar proposals in the future. Approval of applications or plans, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

#### 4.5. Variances.

The Reviewer may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) preclude the Reviewer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

#### 4.6. Limitation of Liability.

The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of Comanche Trace Ranch; they do not create any duty to any Person. Review and approval of any application pursuant to this Article may be made on the basis of aesthetic considerations only, and the Reviewer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighboring property owners.

Declarant, the Association, the Board, any committee, or member of any of the foregoing shall not be held liable for soil conditions, drainage or other general site work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition or quality of work of any contractor or its subcontractors,



employees or agents, whether or not Declarant has approved or featured such contractor as a builder in Texas; or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Unit. In all matters, the Board, the ARC, and the members of each shall be defended and indemnified by the Association as provided in Section 7.6.

4.7. Certificate of Compliance.

Any Owner may request that the Reviewer issue a certificate of architectural compliance certifying that there are no known violations of this Article or the Architectural Guidelines. The Association shall either grant or deny such request within 30 days after receipt of a written request and may charge a reasonable administrative fee for issuing such certificates. Issuance of such a certificate shall preclude the Association from taking enforcement action with respect to any condition as to which the Association had notice as of the date of such certificate.

**Article V Maintenance and Repair**

5.1. Maintenance of Units.

Each Owner shall maintain his or her Unit and all landscaping and improvements comprising the Unit in a manner consistent with the Governing Documents, the Community-Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association or a Neighborhood pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Unit.

Each Owner shall also be responsible for maintaining and irrigating the landscaping within that portion of any adjacent Common Area or public right-of-way lying between the Unit boundary and any wall, fence or curb located on the Common Area or public right-of-way within 10 feet of the Unit boundary; provided, there shall be no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article IV.

5.2. Maintenance of Neighborhood Property.

Any Neighborhood Association shall maintain its common property and any other property for which it has maintenance responsibility in a manner consistent with the Governing Documents, the Community-Wide Standard and all applicable covenants.

Any Neighborhood Association shall also be responsible for maintaining and irrigating the landscaping within that portion of any adjacent Common Area or public right-of-way lying between the boundary of its common property and any wall, fence or curb located on the Common Area or public right-of-way within 10 feet of its boundary; provided, there shall be no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article IV.

Upon resolution of the Board, Owners within each Neighborhood shall be responsible for paying, through Neighborhood Assessments, the costs of operating, maintaining and insuring certain portions of the Area of Common Responsibility within or adjacent to such Neighborhood.

This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way and greenspace between the Neighborhood and adjacent public roads, private streets within the Neighborhood, and lakes or ponds within the Neighborhood, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; provided, however, all Neighborhoods which are similarly situated shall be treated the same.

The Association may assume maintenance responsibility for property within any Neighborhood, in addition to that designated by any Supplemental Declaration, either by agreement with the Neighborhood or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard. All costs of maintenance pursuant to this paragraph shall be assessed as a Neighborhood Assessment only against the Units within the Neighborhood to which the services are provided. The provision of services in accordance with this Section shall not constitute discrimination within a class.

### 5.3. Responsibility for Repair and Replacement.

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary to maintain the property to a level consistent with the Community-Wide Standard.

By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible, unless either the Neighborhood Association (if any) for the Neighborhood in which the Unit is located or the Association carries such insurance (which they may, but are not obligated to do hereunder). If the Association assumes responsibility for obtaining any insurance coverage on behalf of Owners, the premiums for such insurance shall be levied as a Specific Assessment against the benefited Unit and the Owner.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his or her Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IV. Alternatively, the Owner shall clear the Unit and maintain it in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs not covered by insurance proceeds.

This Section shall apply to any Neighborhood Association responsible for common property within the Neighborhood in the same manner as if the Neighborhood Association was an Owner and the common property were a Unit. Additional Recorded covenants applicable to any Neighborhood may establish more stringent requirements for insurance and more stringent standards for rebuilding or reconstructing structures on the Units within such Neighborhood and for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

**PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION**

*This Declaration establishes the Association as a mechanism by which each Owner is able to participate in the governance and administration of Comanche Trace Ranch. While many powers and responsibilities are vested in the Association's board of directors in order to facilitate day-to-day management and operation, some decisions are considered of such importance that they are reserved for the Association's membership -- the owners of property in Comanche Trace Ranch.*

**Article VI The Association and its Members****6.1. Function of Association.**

The Association is the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility. The Association also is the primary entity responsible for enforcement of the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and Texas law.

**6.2. Membership.**

Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 6.3(c) and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

**6.3. Voting.**

The Association shall have two classes of membership, Class "A" and Class "B".

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one equal vote for each Unit in which they hold the interest required for membership under Section 6.2, except that there shall be only one vote per Unit. No vote shall be exercised for any property which is exempt from assessment under Section 8.9. All Class "A" votes shall be cast as provided in Section 6.3(c) below.

(b) Class "B". The sole Class "B" Member shall be the Declarant. The Class "B" Member may appoint a majority of the members of the Board of Directors during the Class "B" Control Period, as specified in the By-Laws. Additional rights of the Class "B" Member are specified in the relevant sections of the Governing Documents. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in the By-Laws.

The Class "B" membership shall terminate upon the earlier of:

- (i) two years after expiration of the Class "B" Control Period pursuant to Article III of the By-Laws; or
- (ii) when, in its discretion, Declarant so determines and declares in a Recorded instrument.

Upon termination of the Class "B" membership, Declarant shall be a Class "A" Member entitled to Class "A" votes for each Unit which it owns.

In recognition of the different character and intended use of the property subject to such Supplemental Declaration, Declarant may, by Supplemental Declaration, create additional classes of membership for the owners of Units within any property made subject to this Declaration pursuant to Article IX. These classes shall have such rights, privileges and obligations as specified in such Supplemental Declaration.

(c) Exercise of Voting Rights. Except as otherwise specified in this Declaration or the By-Laws, the vote for each Unit owned by a Class "A" Member shall be exercised by the Voting Member representing the Neighborhood, as provided in Section 6.4(b). The Voting Member may cast all such votes as it, in its discretion, deems appropriate.

In any situation where a Member is entitled personally to exercise the vote for his or her Unit, and there is more than one Owner of such Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

6.4. Neighborhoods, Voting Members and Voting Groups.

(a) Neighborhoods. Any Neighborhood, acting either through a Neighborhood Committee elected as provided in Section 5.3 of the By-Laws or through a Neighborhood Association, if any, may request that the Association provide a higher level of service than which the Association generally provides to all Neighborhoods or may request that the Association provide special services for the benefit of Units in such Neighborhood. Upon the affirmative vote, written consent, or a combination thereof, of Owners of a majority of the Units within the Neighborhood, the Association shall provide the requested services.

The cost of such services, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge shall apply at a uniform rate per Unit to all Neighborhoods receiving the same service), shall be assessed against the Units within such Neighborhood as a Neighborhood Assessment.

Exhibit "A" to this Declaration, and each Supplemental Declaration submitting additional property to this Declaration shall initially assign the submitted property to a specific Neighborhood (by name or other identifying designation), which Neighborhood may be then existing or newly created. So long as it has the right to subject additional property to this

Declaration pursuant to Section 9.1, Declarant may unilaterally amend this Declaration or any Supplemental Declaration to redesignate Neighborhood boundaries. However, two or more existing Neighborhoods shall not be combined without the consent of Owners of a majority of the Units in the affected Neighborhoods.

(b) Voting Members. Each Neighborhood shall elect a Voting Member who shall be responsible for casting all votes attributable to Units owned by Class "A" Members in the Neighborhood on all Association matters requiring a membership vote, except as otherwise specified in this Declaration or the By-Laws. In addition, each Neighborhood shall elect an alternate Voting Member who shall be responsible for casting such votes in the absence of the Voting Member.

The first election of a Voting Member and alternate Voting Member from each Neighborhood shall occur within one year after the sale of the first Unit in the Neighborhood to a Person other than a Builder. Thereafter, the Board shall call for an election of Voting Members and alternates on an annual basis, either by written ballots cast by mail, computer, or at a meeting of the Class "A" Members within such Neighborhood, as the Board determines. Upon written petition signed by Class "A" Members holding at least 10% of the votes attributable to Units within any Neighborhood, the election for such Neighborhood shall be held at a meeting. Candidates for election as Voting Members may be nominated by the Board, a nominating committee which the Board may appoint, or from the floor at any meeting at which such election is to be held.

The presence, in person or by proxy, or the filing of ballots by Class "A" Members representing at least 25% of the total Class "A" votes attributable to Units in the Neighborhood shall constitute a quorum at any Neighborhood meeting or election. In the event of a failure to obtain a quorum or vacancy in such positions for any Neighborhood, the Board may appoint a Voting Member or alternate Voting Member to represent such Neighborhood until a successor is elected.

For any Neighborhood election, each Class "A" Member shall be entitled to one equal vote for each Unit which such Owner owns in the Neighborhood. The candidate who receives the greatest number of votes shall be elected as Voting Member and the candidate receiving the next greatest number of votes shall be elected as the alternate Voting Member. The Voting Member and the alternate Voting Member shall serve a term of one year and until their successors are elected.

Any Voting Member may be removed, with or without cause, upon the vote or written petition of Owners of a majority of the total number of Units owned by Class "A" Members in the Neighborhood which the Voting Member represents.

Until such time as the Board first calls for election of a Voting Member for any Neighborhood, the Owners within such Neighborhood shall be entitled personally to cast the votes attributable to their respective Units on any issue requiring a membership vote under the Governing Documents.

(c) **Voting Groups.** Declarant may designate Voting Groups consisting of one or more Neighborhoods for the purpose of electing directors to the Board. Voting Groups may be designated to ensure groups with dissimilar interests are represented on the Board and to avoid some Voting Members being able to elect the entire Board due to the number of Units in such Neighborhoods. Following termination of the Class "B" Control Period, the number of Voting Groups within Comanche Trace Ranch shall not exceed the total number of directors to be elected by the Class "A" Members pursuant to the By-Laws.

The Voting Members representing the Neighborhoods within each Voting Group shall vote on a separate slate of candidates for election to the Board. Each Voting Group is entitled to elect the number of directors specified in Article III of the By-Laws.

Diagram 6.1 illustrates the organizational structure of the Association and the manner in which Voting Members and Voting Groups will elect the Board of Directors after the Class "B" Control Period. The number of directors (five), Neighborhoods (five) and Voting Groups (three) shown in the illustration are for demonstrative purposes only; the actual number may be different.

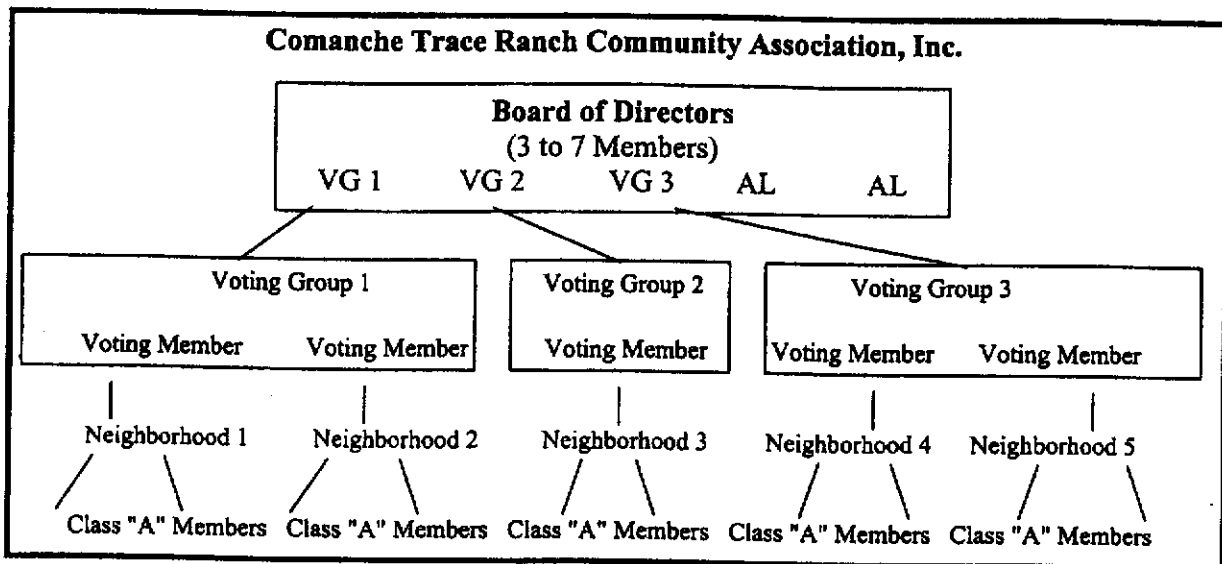


Diagram 6.1 - Association Organizational Structure

Declarant shall establish Voting Groups, if at all, not later than the date of expiration of the Class "B" Control Period by filing with the Association and Recording a Supplemental Declaration identifying each Voting Group by legal description or other means such that the Units within each Voting Group can easily be determined. Such designation may be amended from time to time by Declarant, acting alone, at any time prior to the expiration of the Class "B" Control Period.

After expiration of Declarant's right to expand Comanche Trace Ranch pursuant to Article IX, the Board shall have the right to Record or amend such Supplemental Declaration upon the vote of a majority of the total number of directors and approval of Voting Members representing a majority of the total number of Neighborhoods and a majority of the total Class

"A" votes in the Association. Neither Recordation nor amendment of such Supplemental Declaration by Declarant shall constitute an amendment to this Declaration, and no consent or approval of any Person shall be required except as stated in this paragraph. Until such time as Voting Groups are established, all of Comanche Trace Ranch shall constitute a single Voting Group. After a Supplemental Declaration establishing Voting Groups has been Recorded, any and all portions of Comanche Trace Ranch which are not assigned to a specific Voting Group shall constitute a single Voting Group.

## **Article VII Association Powers and Responsibilities**

### **7.1. Acceptance and Control of Association Property.**

(a) The Association, through action of its Board, may acquire, hold, lease (as lessor or lessee), operate and dispose of tangible and intangible personal property and real property, subject to the provisions of Sections 17.9 and 19.4. The Association may enter into leases, licenses or operating agreements for portions of the Common Area, for such consideration or no consideration as the Board deems appropriate, to permit use of such portions of the Common Area by community organizations and by others, whether nonprofit or for profit, for the provision of goods or services for the general benefit or convenience of owners, occupants and residents of Comanche Trace Ranch.

(b) Declarant and its designees may convey to the Association, and the Association shall accept, personal property and fee title, leasehold or other property interests in any real property, improved or unimproved, described in Exhibit "A" or "B." Declarant shall convey the initial Common Area to the Association prior to the conveyance of a Unit to any Person other than a Builder. Upon Declarant's written request, the Association shall reconvey to Declarant any unimproved portions of the Common Area which Declarant originally conveyed to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

(c) The Association shall be responsible for management, operation and control of the Common Area, subject to any covenants and restrictions set forth in the deed or other instrument transferring such property to the Association. The Board may adopt such reasonable rules regulating use of the Common Area as it deems appropriate.

### **7.2. Maintenance of Area of Common Responsibility.**

The Association shall maintain, in accordance with the Community-Wide Standard, the Area of Common Responsibility, which shall include, but need not be limited to:

- (a) all portions of and structures situated on the Common Area;
- (b) landscaping within public rights-of-way within or abutting Comanche Trace Ranch;
- (c) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, the

Covenant to Share Costs, or any contract or agreement for maintenance thereof entered into by the Association;

(d) all ponds, streams and/or wetlands located within Comanche Trace Ranch which serve as part of the stormwater drainage system for Comanche Trace Ranch, including improvements and equipment installed therein or used in connection therewith; and

(e) any property and facilities which Declarant owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members. Such property and facilities shall be identified by written notice from Declarant to the Association and will remain part of the Area of Common Responsibility maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

The Association shall not be liable for any damage or injury occurring on or arising out of the condition of property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the Board's sole discretion, to perform required maintenance or repairs, unless Voting Members representing 75% of the Class "A" votes in the Association and the Class "B" Member, if any, agree in writing to discontinue such operation.

Except as provided above, the Area of Common Responsibility shall not be reduced except with Declarant's prior written approval as long as Declarant owns any property described in Exhibit "A" or "B" of this Declaration.

The costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense; provided, the Association may seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, the Covenant to Share Costs, other Recorded covenants, or agreements with the owner(s) thereof. Maintenance, repair and replacement of Limited Common Areas shall be a Neighborhood Expense assessed to the Neighborhood(s) to which the Limited Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

### 7.3. Insurance.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area and within the Area of Common Responsibility to the extent that Association has assumed responsibility in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes;

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(iv) Directors and officers liability coverage;

(v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-quarter of the annual Base Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) Such additional insurance as the Board, in the exercise of its business judgment, determines advisable.

In addition, the Association shall, if so specified in a Supplemental Declaration applicable to any Neighborhood, obtain and maintain property insurance on the insurable improvements within such Neighborhood which insurance shall comply with the requirements of Section 7.3(a)(i). Any such policies shall provide for a certificate of insurance to be furnished upon request to the Owner of each Unit insured.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses, except that (i) premiums for property insurance on Units within a Neighborhood shall be a Neighborhood Expense; and (ii) premiums for insurance on Limited Common Areas may be included in the Neighborhood Expenses of the Neighborhood(s) to which such Limited Common Areas are assigned unless the Board reasonably determines that other treatment of the premiums is more appropriate.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the Kerrville area. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.3(a). In the event of an insured loss, the deductible shall be treated as a Common Expense or a Neighborhood Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.

All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in Texas which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(ii) be written in the name of the Association as trustee for the benefitted parties. Policies on the Common Areas shall be for the benefit of the Association and its Members. Policies secured on behalf of a Neighborhood shall be for the benefit of the Owners within the Neighborhood and their Mortgagees, as their interests may appear;

(iii) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(iv) contain an inflation guard endorsement;

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area as a Member in the Association (provided, this provision shall not be construed as giving an Owner any interest in the Common Area other than that of a Member);

(vii) provide a waiver of subrogation under the policy against any Owner or household member of an Owner;

(viii) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of

any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and

(ix) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(i) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(iv) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(v) a cross liability provision; and

(vi) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the Common Area shall be repaired or reconstructed unless the Voting Members representing at least 75% of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide within 60 days after the loss not to repair or reconstruct. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed 60 additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members or the Owners of Units within the insured Neighborhood, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Voting Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 7.3(a).

#### 7.4. Compliance and Enforcement.

(a) Every Owner and occupant of a Unit shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents after notice and a hearing in accordance with the procedures set forth in Section 3.24 of the By-Laws. Such sanctions may include, without limitation:

(i) imposing reasonable monetary fines which shall constitute a lien upon the violator's Unit. (In the event that any occupant, guest or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided, however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);

(ii) suspending an Owner's right to vote;

(iii) suspending any Person's right to use any recreational facilities within the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

(iv) suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association;

(v) exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;

(vi) requiring an Owner, at its own expense, to remove any structure or improvement on such Owner's Unit in violation of the Governing Documents and to restore the Unit to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to

substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(vii) without liability to any Person, precluding any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of Article IV and the Architectural Guidelines from continuing or performing any further activities in Comanche Trace Ranch; and

(vii) levying Specific Assessments to cover costs incurred by the Association to bring a Unit into compliance with the Governing Documents.

In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with the procedures set forth in Section 3.24 of the By-Laws:

(i) exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); or

(ii) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may Record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner as a Specific Assessment. If a Neighborhood Association fails to perform its maintenance responsibilities, the Association may perform such maintenance and assess the costs as a Specific Assessment against all Units within such Neighborhood. Except in an emergency situation, the Association shall provide the Owner or Neighborhood Association reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

(b) The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action; or

(ii) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

The Association, by contract or other agreement, may enforce applicable city ordinances and permit the City of Kerrville to enforce ordinances within Comanche Trace Ranch for the benefit of the Association and its Members.

7.5. Implied Rights; Board Authority.

The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. All rights and powers of the Association may be exercised by the Board without a vote of the membership except where applicable law or the Governing Documents specifically require a vote of the membership.

The Board may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility, enforcement of the Governing Documents, or any other civil claim or action. However, the Governing Documents shall not be construed as creating any independent legal duty to institute litigation on behalf of or in the name of the Association or its Members.

In exercising the rights and powers of the Association, making decisions on behalf of the Association, and conducting the Association's affairs, Board members shall be subject to, and their actions shall be judged in accordance with, the standards set forth in Article III of the By-Laws.

7.6. Indemnification of Officers, Directors and Others.

Subject to Texas law, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association).

The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

#### 7.7. Safety and Security.

Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in Comanche Trace Ranch. The Association may, but shall not be obligated to, maintain or support certain activities within Comanche Trace Ranch designed to enhance the level of safety or security which each person provides for himself or herself and his or her property. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of safety or security within Comanche Trace Ranch, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to Comanche Trace Ranch, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and shall be responsible for informing its tenants and all occupants of its Unit that the Association, its Board and committees, and Declarant are not insurers or guarantors of security or safety and that each Person within Comanche Trace Ranch assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

Neither the Declarant nor the Association shall be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of the Comanche Trace Ranch Lake and the Guadalupe River. Each Owner, by acceptance of a deed to a Unit, acknowledges on behalf of himself or herself and his or her family members, tenants, and guests that neither the Declarant, the Association, nor their respective officers, directors, employees, or agents shall be liable to such Owner or any other person claiming any loss or damage, including, without limitation, indirect, special or consequential loss or damage arising from personal injury or death, destruction of property, trespass, loss of enjoyment or any other wrong or entitlement to remedy based

upon, due to, arising from or otherwise relating to the use of the Comanche Trace Ranch Lake or the Guadalupe River.

7.8. Powers of the Association Relating to Neighborhood Associations.

The Association shall have the power to veto any action taken or contemplated to be taken by any Neighborhood Association which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standard. The Association also shall have the power to require specific action to be taken by any Neighborhood Association in connection with its obligations and responsibilities, such as requiring specific maintenance or repairs or aesthetic changes to be effectuated and requiring that a proposed budget include certain items and that expenditures be made therefore.

A Neighborhood Association shall take appropriate action required by the Association in a written notice within the reasonable time frame set by the Association in the notice. If the Neighborhood Association fails to comply, the Association shall have the right to effect such action on behalf of the Neighborhood Association and levy Specific Assessments to cover the costs, as well as an administrative charge and sanctions.

7.9. Provision of Services.

The Association may provide, or provide for, services and facilities for the Members and their Units, and shall be authorized to enter into and terminate contracts or agreements with other entities, including Declarant, to provide such services and facilities. The Board may charge use or service fees for any such services and facilities provided at the option of an Owner, or may include the costs thereof in the Association's budget as a Common Expense and assess it as part of the Base Assessment if provided to all Units. By way of example, such services and facilities might include landscape maintenance, pest control service, cable television service, security, caretaker, transportation, fire protection, utilities, and similar services and facilities.

Nothing in this Section shall be construed as a representation by Declarant or the Association as to what, if any, services shall be provided. In addition, the Board shall be permitted to modify or cancel existing contracts for services in its discretion, unless the provision of such services is otherwise required by the Governing Documents. Non-use of services provided to all Owners or Units as a Common Expense shall not exempt any Owner from the obligation to pay assessments for such services.

7.10. Relationships with Other Properties.

The Association may enter into contractual agreements or covenants to share costs with any neighboring property or Private Amenity to contribute funds for, among other things, shared or mutually beneficial property or services and/or a higher level of Common Area maintenance.

7.11. Relations with Other Entities.

The Association may enter into agreements with tax exempt foundations and other entities for the benefit of Comanche Trace Ranch and its residents, as well as the larger

community surrounding the Comanche Trace Ranch. The purposes for such agreements may include, without limitation:

(a) preservation and maintenance of natural areas, wildlife preserves, or similar conservation areas and sponsorship of educational programs and activities which contribute to the overall understanding, appreciation, and preservation of the natural environment within the Property or the surrounding community;

(b) programs and activities which serve to promote a sense of community, such as recreational leagues, cultural programs, educational programs, festivals, holiday celebrations and activities, a community computer network, and recycling programs; and

(c) social services, community outreach programs, and other charitable causes.

7.12. Facilities and Services Open to the Public.

Certain facilities and areas within Comanche Trace Ranch may be open for use and enjoyment of the public. Such facilities and areas may include, by way of example: greenbelts, trails and paths, parks, and other neighborhood spots conducive to gathering and interaction, roads, sidewalks, and medians. Declarant may designate such facilities and areas as open to the public at the time Declarant makes such facilities and areas a part of the Area of Common Responsibility or the Board may so designate at any time thereafter.

**Article VIII Association Finances**

8.1. Budgeting and Allocating Common Expenses.

At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to Section 8.3. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount to be generated through the levy of Base Assessments and Special Assessments against the Units, as authorized in Section 8.6.

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Diagram 8.1 illustrates the various funding sources available to the Association:

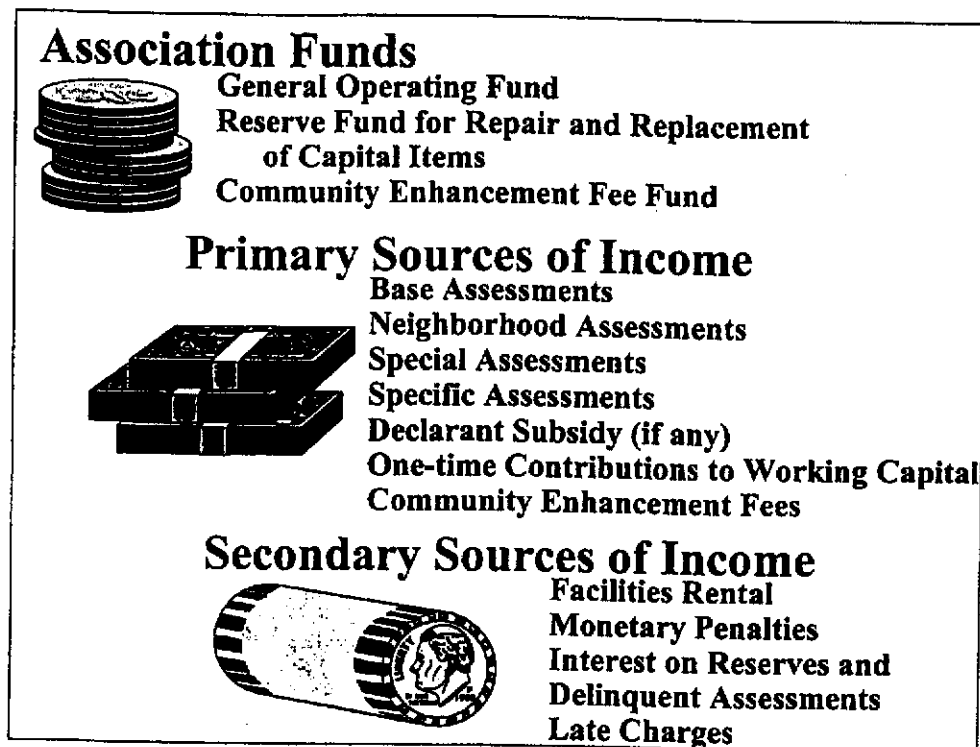


Diagram 8.1 - Funding Sources

The Association is authorized to levy Base Assessments equally against all Units subject to assessment under Section 8.6 to fund the Common Expenses. In determining the Base Assessment rate per Unit, the Board may consider any assessment income expected to be generated from any additional Units reasonably anticipated to become subject to assessment during the fiscal year.

Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 8.7(b)), which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

The Board shall send a copy of the final budget, together with notice of the amount of the Base Assessment to be levied pursuant to such budget, to each Owner at least 30 days prior to the effective date of such budget. The budget shall automatically become effective unless disapproved at a meeting by Members representing at least 75% of the total Class "A" votes in the Association and by the Class "B" Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as

provided for special meetings in Section 2.4 of the By-Laws. Any such petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

The Board may revise the budget and adjust the Base Assessment from time to time during the year, subject to the notice requirements and the right of the Members to disapprove the revised budget as set forth above.

#### 8.2. Budgeting and Allocating Neighborhood Expenses.

At least 60 days before the beginning of each fiscal year, the Board shall prepare a separate budget covering the estimated Neighborhood Expenses for each Neighborhood on whose behalf Neighborhood Expenses are expected to be incurred during the coming year. Each such budget shall include any costs for additional services or a higher level of services which the Owners in such Neighborhood have approved pursuant to Section 6.4(a) and any contribution to be made to a reserve fund pursuant to Section 8.3. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount required to be generated through the levy of Neighborhood and Special Assessments against the Units in such Neighborhood.

The Association is hereby authorized to levy Neighborhood Assessments equally against all Units in the Neighborhood which are subject to assessment under Section 8.6 to fund Neighborhood Expenses; provided, if so specified in the applicable Supplemental Declaration or if so directed by petition signed by a majority of the Owners within the Neighborhood, any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures shall be levied on each of the benefited Units in proportion to the benefit received.

The Board shall cause a copy of the Neighborhood budget and notice of the amount of the Neighborhood Assessment for the coming year to be delivered to each Owner in the Neighborhood at least 30 days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved at a meeting of the Neighborhood by Owners of a majority of the Units in the Neighborhood to which the Neighborhood Assessment applies. However, there shall be no obligation to call a meeting for the purpose of considering the budget except on petition of Owners of at least 10% of the Units in such Neighborhood. This right to disapprove shall only apply to those line items in the Neighborhood budget which are attributable to services requested by the Neighborhood and shall not apply to any item which the Governing Documents require to be assessed as a Neighborhood Assessment.

If the proposed budget for any Neighborhood is disapproved or if the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

The Board may revise the budget for any Neighborhood and the amount of any Neighborhood Assessment from time to time during the year, subject to the notice requirements and the right of the Owners of Units in the affected Neighborhood to disapprove the revised budget as set forth above.

All amounts collected by the Association as Neighborhood Assessments shall be held in trust for and expended solely for the benefit of the Neighborhood for which they were collected and shall be accounted for separately from the Association's general funds.

### 8.3. Budgeting for Reserves.

The Board shall prepare and review at least annually a reserve budget for the Area of Common Responsibility and for each Neighborhood for which the Association maintains capital items as a Neighborhood Expense. The budgets shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall include in the Common Expense budget adopted pursuant to Section 8.1 or the Neighborhood Expense budgets adopted pursuant to Section 8.2, as appropriate, a capital contribution to fund reserves in an amount sufficient to meet the projected need with respect to both amount and timing by annual contributions over the budget period.

### 8.4. Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, or against the Units within any Neighborhood if such Special Assessment is for Neighborhood Expenses. Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of Voting Members (if a Common Expense) or Owners (if a Neighborhood Expense) representing more than 50% of the total votes allocated to Units which will be subject to such Special Assessment, and the affirmative vote or written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

### 8.5. Specific Assessments.

The Association shall have the power to levy Specific Assessments against a particular Unit as follows:

- (a) to cover the costs, including overhead and administrative costs, of providing services to Units upon request of an Owner pursuant to any menu of special services which may be offered by the Association (which might include the items identified in Section 7.9). Specific Assessments for special services may be levied in advance of the provision of the requested service; and

(b) to cover costs incurred in bringing the Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing, in accordance with the By-Laws, before levying any Specific Assessment under this subsection (b).

The Association may also levy a Specific Assessment against the Units within any Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Governing Documents, provided the Board gives prior written notice to the Owners of Units in, or the Voting Member representing, the Neighborhood and an opportunity for such Owners or Voting Member to be heard before levying any such assessment.

8.6. Authority to Assess Owners; Time of Payment.

Declarant hereby establishes and the Association is hereby authorized to levy assessments as provided for in this Article and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Unit on the first day of the month following: (a) the month in which the Unit is made subject to this Declaration, or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual Base Assessment and Neighborhood Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment and any Neighborhood Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his or her Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately.

8.7. Obligation for Assessments.

(a) Personal Obligation. Each Owner, by accepting a deed or entering into a Recorded contract of sale for any portion of Comanche Trace Ranch, is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 10% per annum or such higher rate as the Board may establish, subject to the limitations of Texas law), late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Unit until paid in full. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

Failure of the Board to fix assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay

Base Assessments and Neighborhood Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner may exempt himself or herself from liability for assessments by non-use of Common Area, abandonment of his or her Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

Upon written request, the Association shall furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(b) Declarant's Option to Fund Budget Deficits. During the Class "B" Control Period, Declarant may satisfy its obligation for assessments on Units which it owns either by paying such assessments in the same manner as any other Owner or by paying the difference between the amount of assessments levied on all other Units subject to assessment and the amount of actual expenditures by the Association during the fiscal year. Unless Declarant otherwise notifies the Board in writing at least 60 days before the beginning of each fiscal year, Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year.

Regardless of Declarant's election, Declarant's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these. After termination of the Class "B" Control Period, Declarant shall pay assessments on its unsold Units in the same manner as any other Owner.

#### 8.8. Lien for Assessments.

The Association shall have a lien against each Unit to secure payment of delinquent assessments, as well as interest, late charges (subject to the limitations of Texas law), and costs of collection (including attorneys fees). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record (meaning any Recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure in the same manner as mortgages are foreclosed under Texas law.

Although no further action is required to create or perfect the lien, the Association may, as further evidence and notice of the lien, execute and Record a document setting forth as to any Unit, the amount of the delinquent sums due the Association at the time such document is executed and the fact that a lien exists to secure the repayment thereof. However, the failure of

the Association to execute and Record any such document shall not, to any extent, affect the validity, enforceability, perfection, or priority of the lien. The lien may be foreclosed through judicial or, to the extent allowed by law, nonjudicial foreclosure proceedings in accordance with *Tex. Prop. Code Ann.* Section 51.002 (Vernon 1984), as it may be amended, in like manner of any deed of trust on real property. Each Owner hereby grants to the Association, whether or not it is so expressed in the deed or other instrument conveying such Unit to the Owner, a power of sale to be exercised in accordance with *Tex. Prop. Code Ann.* Section 51.002 (Vernon 1984), as it may be amended.

The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

The sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner to the foreclosed Unit shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 8.6, including such acquirer, its successors and assigns.

#### 8.9. Exempt Property.

The following property shall be exempt from payment of Base Assessments, Neighborhood Assessments, and Special Assessments:

(a) All Common Area and such portions of the property owned by Declarant as are included in the Area of Common Responsibility;

(b) Any property dedicated to and accepted by any governmental authority or public utility; and

(c) Property owned by any Neighborhood Association for the common use and enjoyment of its members, or owned by the members of a Neighborhood Association as tenants-in-common.

In addition, Declarant and/or the Association shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for tax-exempt status under Section 501(c) of the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c).

8.10. Capitalization of Association.

Upon acquisition of record title to a Unit by the first Owner thereof other than Declarant or a Builder, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-sixth (1/6) of the annual Base Assessment per Unit for that year. This amount shall be in addition to, not in lieu of, the annual Base Assessment and shall not be considered an advance payment of such assessment. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to this Declaration and the By-Laws.

8.11. Community Enhancement Fee.

(a) Authority. The Board shall have the authority, on behalf of the Association, to establish and collect a transfer fee from the transferring Owner upon each transfer of title to a Unit in Comanche Trace Ranch, which fee shall be payable to the Association at the closing of the transfer and shall be secured by the Association's lien for assessments under Section 8.8. Owner shall notify the Association's Secretary of a pending title transfer at least seven days prior to the transfer. Such notice shall include the name of the buyer, the date of title transfer, and such other information as the Board may reasonably require.

(b) Fee Limit. The Board shall have the sole discretion to determine the amount and method of determining any such transfer fee. The Board is authorized, but not required, to determine the transfer fee based upon a sliding scale which varies in accordance with the "gross selling price" of the property or any other factor as determined by the Board. However, in no event shall any such transfer fee exceed one percent (1%) of the gross selling price of the property. For the purpose of determining the amount of the transfer fee, the gross selling price shall be the total cost to the purchaser of the property, excluding taxes and title transfer fees as shown by the amount of tax imposed by Kerr County and the State of Texas.

(c) Purpose. All transfer fees which the Association collects shall be deposited into a segregated account used for such purposes as the Board deems beneficial to the general good and welfare of Comanche Trace Ranch which the Governing Documents do not otherwise require to be addressed by the Association's general operating budget. By way of example and not limitation, such transfer fees might be used to assist the Association or one or more tax-exempt entities in funding:

(i) preservation and maintenance of natural areas, wildlife preserves, or similar conservation areas, and sponsorship of educational programs and activities which contribute to the overall understanding, appreciation and preservation of the natural environment at Comanche Trace Ranch;

(ii) programs and activities which serve to promote a sense of community within Comanche Trace Ranch, such as recreational leagues, cultural programs, educational programs, festivals and holiday celebrations and activities, a community computer network, and recycling programs; and

(iii) social services, community outreach programs, and other charitable causes.

(d) Exempt Transfers. Notwithstanding the above, no transfer fee shall be levied upon transfer of title to a Unit:

- (i) by or to Declarant;
- (ii) by a co-owner to any Person who was a co-owner immediately prior to such transfer;
- (iii) to the Owner's estate, surviving spouse or child upon the death of the Owner;
- (iv) to an entity wholly owned by the grantor; provided, upon any subsequent transfer of an ownership interest in such entity, the transfer fee shall become due; or
- (v) to an institutional lender pursuant to a Mortgage or upon foreclosure of a Mortgage.

#### PART FOUR: COMMUNITY DEVELOPMENT

*The Declaration reserves various rights to the developer in order to facilitate the smooth and orderly development of Comanche Trace Ranch and to accommodate changes in the master plan which inevitably occur as a community the size of Comanche Trace Ranch grows and matures.*

#### Article IX Expansion of the Community

##### 9.1. Expansion by Declarant.

Declarant may from time to time subject to the provisions of this Declaration all or any portion of the property described in Exhibit "B" by Recording a Supplemental Declaration describing the additional property to be subjected. A Supplemental Declaration Recorded pursuant to this Section shall not require the consent of any Person except the owner of such property, if other than Declarant.

Declarant's right to expand Comanche Trace Ranch pursuant to this Section shall expire when all property described in Exhibit "B" has been subjected to this Declaration or 25 years after this Declaration is Recorded, whichever is earlier. Until then, Declarant may transfer or assign this right to any Person who is the developer of at least a portion of the real property described in Exhibit "A" or "B." Any such transfer shall be memorialized in a written, Recorded instrument executed by Declarant.

Nothing in this Declaration shall be construed to require Declarant or any successor to subject additional property to this Declaration or to develop any of the property described in Exhibit "B" in any manner whatsoever.

9.2. Expansion by the Association.

The Association may also subject additional property to the provisions of this Declaration by Recording a Supplemental Declaration describing the additional property. Any such Supplemental Declaration shall require the affirmative vote of Voting Members representing more than 50% of the Class "A" votes of the Association represented at a meeting duly called for such purpose and the consent of the owner of the property. In addition, so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, Declarant's consent shall be necessary. The Supplemental Declaration shall be signed by the Association's President and Secretary, by the owner of the property, and by Declarant, if Declarant's consent is necessary.

9.3. Additional Covenants and Easements.

Declarant may subject any portion of Comanche Trace Ranch to additional covenants and easements, including covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Neighborhood Assessments. Such additional covenants and easements may be set forth either in a Supplemental Declaration subjecting such property to this Declaration or in a separate Supplemental Declaration referencing property previously subjected to this Declaration. If the property is owned by someone other than Declarant, then the consent of the Owner(s) shall be necessary and shall be evidenced by their execution of the Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

9.4. Effect of Filing Supplemental Declaration.

A Supplemental Declaration shall be effective upon Recording unless otherwise specified in such Supplemental Declaration. On the effective date of the Supplemental Declaration, any additional property subjected to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration.

**Article X      Additional Rights Reserved to Declarant**

10.1. Withdrawal of Property.

Declarant reserves the right to amend this Declaration, so long as it has a right to annex additional property pursuant to Section 9.1, for the purpose of removing any portion of Comanche Trace Ranch which has not yet been improved with structures from the coverage of this Declaration, provided such withdrawal does not reduce the total number of Units then subject to the Declaration by more than 10 percent. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Association shall consent to such withdrawal.

10.2. Marketing and Sales Activities.

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Declarant and Builders authorized by Declarant may construct and maintain upon portions of the Common Area such facilities and activities as, in Declarant's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of Units, including, but not limited to, business offices, signs, model units, and sales offices. Declarant and authorized Builders shall have easements for access to and use of such facilities at no charge.

10.3. Right to Develop.

Declarant and its employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

Every Person that acquires any interest in Comanche Trace Ranch acknowledges that Comanche Trace Ranch is a master planned community, the development of which is likely to extend over many years, and agrees not to protest, challenge or otherwise object to (a) changes in uses or density of property outside the Neighborhood in which such Person holds an interest, or (b) changes in the Master Plan as it relates to property outside the Neighborhood in which such Person holds an interest.

10.4. Right to Approve Additional Covenants.

No Person shall Record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of Comanche Trace Ranch without Declarant's review and written consent. Any attempted Recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed and Recorded by Declarant.

10.5. Right to Approve Changes in Comanche Trace Ranch Standards.

No amendment to or modification of any Restrictions and Rules or Architectural Guidelines shall be effective without prior notice to and the written approval of Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1.

10.6. Right to Transfer or Assign Declarant Rights.

Any or all of Declarant's special rights and obligations set forth in this Declaration or the By-Laws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument Declarant signs and Records. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to Record any written assignment unless necessary to evidence Declarant's consent to such exercise.

10.7. Exclusive Rights To Use Name of Development. VOL. 1081 PAGE 0673

No Person shall use the name "Comanche Trace Ranch" or any derivative of such name or in logo or depiction in any printed or promotional material without Declarant's prior written consent. However, Owners or builders, as approved may use the name "Comanche Trace Ranch" in printed or promotional matter where such term is used solely to specify that particular property is located within Comanche Trace Ranch and the Association shall be entitled to use the words "Comanche Trace Ranch" in its name or otherwise, as approved.

10.8. Easement to Inspect and Right to Correct.

Declarant reserves for itself and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement or condition which may exist on any portion of the property within Comanche Trace Ranch, including Units, and a perpetual nonexclusive easement of access throughout Comanche Trace Ranch to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner and no entry into a dwelling shall be permitted without the consent of the Owner. The person exercising this easement shall promptly repair, at such person's own expense, any damage resulting from such exercise.

10.9. Right to Notice of Design or Construction Claims.

No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within Comanche Trace Ranch in connection with or in anticipation of any potential or pending claim, demand or litigation involving such design or construction unless Declarant and any builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the owner of the property to discuss the owner's concerns and conduct their own inspection.

10.10. Termination of Rights.

The rights contained in this Article shall not terminate until the earlier of (a) 40 years from the date this Declaration is Recorded, or (b) Recording by Declarant of a written statement that all sales activity has ceased.

**PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY**

*The nature of living in a planned community, with its wide array of properties and development types and its ongoing development activity, requires the creation of special property rights and provisions to address the needs and responsibilities of the Owners, Declarant, the Association, and others within or adjacent to the community.*

**Article XI Easements**

11.1. Easements in Common Area.

Declarant grants to each Owner a nonexclusive right and easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The Board's right to:
  - (i) adopt rules regulating use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
  - (ii) suspend an Owner's right to use recreational facilities within the Common Area (A) for any period during which any charge against such Owner's Unit remains delinquent, and (B) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation, of the Governing Documents after notice and a hearing pursuant to the By-Laws;
  - (iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration;
  - (iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated upon the Common Area;
  - (v) permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees, and guests upon payment of use fees established by the Board and designate other areas and facilities within the Area of Common Responsibility as open for the use and enjoyment of the public;
  - (vi) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth in Sections 17.9 and 19.4; and
- (d) The rights of certain Owners to the exclusive use of those portions of the Common Area designated "Limited Common Areas," as described in Article XII.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable Board regulation. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

#### 11.2. Easements of Encroachment.

Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units or any Unit and any Private Amenity due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in

accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

### 11.3. Easements for Utilities, Etc.

(a) Installation and Maintenance. Declarant reserves for itself, so long as Declarant owns any property described in Exhibit "A" or "B" of this Declaration, and grants to the Association and all utility providers, perpetual non-exclusive easements throughout Comanche Trace Ranch (but not through a structure) to the extent reasonably necessary for the purpose of:

(i) installing utilities and infrastructure to serve Comanche Trace Ranch, cable and other systems for sending and receiving data and/or other electronic signals, security and similar systems, walkways, pathways and trails, drainage systems, street lights and signage on property which Declarant owns or within public rights-of-way or easements reserved for such purpose on Recorded plats;

(ii) inspecting, maintaining, repairing, and replacing the utilities, infrastructure, and other improvements described in Section 11.3(a)(i); and

(iii) access to read utility meters.

(b) Specific Easements. Declarant also reserves for itself the non-exclusive right and power to grant and Record such specific easements as may be necessary, in Declarant's sole discretion, in connection with the orderly development of any property described in Exhibits "A" and "B." The Owner of any property to be burdened by any easement granted pursuant to this subsection (b) shall be given written notice in advance of the grant. The location of the easement shall be subject to the written approval of the Owner of the burdened property, which approval shall not unreasonably be withheld, delayed, or conditioned.

(c) Minimal Interference. All work associated with the exercise of the easements described in subsections (a) and (b) of this Section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

### 11.4. Easements to Serve Additional Property.

Declarant hereby reserves for itself and its duly authorized agents, successors, assigns, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made

subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property.

Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of their respective actions in connection with development of such property. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof benefiting from such easement is not made subject to this Declaration, Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of any maintenance which the Association provides to or along any roadway providing access to such property.

11.5. Easements for Maintenance, Emergency, and Enforcement.

Declarant grants to the Association easements over Comanche Trace Ranch as necessary to enable the Association to fulfill its maintenance responsibilities under Section 7.2. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

11.6. Easements for Lake and Pond Maintenance and Flood Water.

Declarant reserves for itself, the Association, and their successors, assigns, and designees, the nonexclusive right and easement, but not the obligation, to enter upon bodies of water and wetlands located within the Area of Common Responsibility to (a) install, operate, maintain, and replace pumps to supply irrigation water to the Area of Common Responsibility; (b) construct, maintain, and repair structures and equipment used for retaining water; and (c) maintain such areas in a manner consistent with the Community-Wide Standard. Declarant, the Association, and their successors, assigns and designees shall have an access easement over and across any of Comanche Trace Ranch abutting or containing bodies of water or wetlands to the extent reasonably necessary to exercise their rights under this Section.

Declarant further reserves for itself, the Association, and their successors, assigns and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area and Units (but not the dwellings thereon) adjacent to or within 100 feet of bodies of water and wetlands within Comanche Trace Ranch, in order to (a) temporarily flood and back water upon and maintain water over such portions of Comanche Trace Ranch; (b) alter in any manner and generally maintain the bodies of water and wetlands within the Area of Common Responsibility; and (c) maintain and landscape the slopes and banks pertaining to such areas. All persons entitled to exercise these easements shall use reasonable care in and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall, or other natural occurrences.

Every Unit and the Common Area and the common property of any Neighborhood Association are burdened with an easement permitting golf balls unintentionally to come upon such areas, and for golfers at reasonable times and in a reasonable manner to come upon the Common Area, common property of a Neighborhood, or the exterior portions of a Unit to retrieve errant golf balls; provided, however, if any Unit is fenced or walled, the golfer shall seek the Owner's permission before entry. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls. Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: Declarant; the Association or its Members (in their capacities as such); Comanche Trace Ranch and Golf Club, L.L.P., its successors, successors-in-title to the golf course, or assigns; any builder or contractor (in their capacities as such); any officer, director or partner of any of the foregoing, or any officer or director of any partner.

The owner of any golf course within or adjacent to any portion of Comanche Trace Ranch, its agents, successors and assigns, shall at all times have a right and non-exclusive easement of access and use over those portions of the Common Areas reasonably necessary to the operation, maintenance, repair and replacement of its golf course.

Any portion of Comanche Trace Ranch immediately adjacent to any golf course is hereby burdened with a non-exclusive easement in favor of the adjacent golf course for overspray of water from the irrigation system serving such golf course. Under no circumstances shall the Association or the owner of such golf course be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

The owner of any golf course within or adjacent to any portion of Comanche Trace Ranch, its successors and assigns, shall have a perpetual, exclusive easement of access over Comanche Trace Ranch for the purpose of retrieving golf balls from bodies of water within the Common Areas lying reasonably within range of golf balls hit from its golf course.

11.8. Easement to Inspect and Right to Correct.

Declarant reserves for itself and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the property within Comanche Trace Ranch, including Units, and a perpetual, nonexclusive easement of access throughout Comanche Trace Ranch to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner and no entry into a dwelling shall be permitted without the Owner's consent. The person exercising this easement shall promptly repair, at such person's own expense, any damage resulting from such exercise.

**12.1. Purpose.**

Certain portions of the Common Area may be designated as Limited Common Area and reserved for the exclusive use or primary benefit of Owners and occupants within a particular Neighborhood or Neighborhoods. By way of illustration and not limitation, Limited Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, lakes and other portions of the Common Area within a particular Neighborhood or Neighborhoods. All costs associated with maintenance, repair, replacement, and insurance of a Limited Common Area shall be a Neighborhood Expense allocated among the Owners in the Neighborhood(s) to which the Limited Common Areas are assigned.

**12.2. Designation.**

Initially, any Limited Common Area shall be designated as such in the deed conveying such area to the Association or on the subdivision plat relating to such Common Area; provided, however, any such assignment shall not preclude Declarant from later assigning use of the same Limited Common Area to additional Units and/or Neighborhoods, so long as Declarant has a right to subject additional property to this Declaration pursuant to Section 9.1.

Thereafter, a portion of the Common Area may be assigned as Limited Common Area and Limited Common Area may be reassigned upon approval of the Board and the vote of Voting Members representing a majority of the total Class "A" votes in the Association, including a majority of the Class "A" votes within the Neighborhood(s) affected by the proposed assignment or reassignment. As long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, any such assignment or reassignment shall also require Declarant's written consent.

**12.3. Use by Others.**

Upon approval of a majority of Owners of Units within the Neighborhood to which any Limited Common Area is assigned, the Association may permit Owners of Units in other Neighborhoods to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Neighborhood Expenses attributable to such Limited Common Area.

**Article XIII Party Walls and Other Shared Structures**

**13.1. General Rules of Law to Apply.**

Each wall, fence, driveway, or similar structure built as a part of the original construction on the Units which serves and/or separates any two adjoining Units shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Any dispute arising concerning a party structure shall be handled in accordance with the provisions of Article XIV.

13.2. Maintenance; Damage and Destruction.

The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who make use of the party structure.

If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners thereafter use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

**PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY**

*The growth and success of Comanche Trace Ranch as a community in which people enjoy living, working, and playing requires good faith efforts to resolve disputes amicably, attention to and understanding of relationships within the community and with our neighbors, and protection of the rights of others who have an interest in the community.*

**Article XIV Dispute Resolution and Limitation on Litigation**14.1. Agreement to Encourage Resolution of Disputes Without Litigation.

(a) Declarant, the Association and its officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Community without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 14.2 in a good faith effort to resolve such Claim.

(b) As used in this Article, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to

(i) the interpretation, application, or enforcement of the Governing Documents;

(ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or

(iii) the design or construction of improvements within the Community, other than matters of aesthetic judgment under Article IV, which shall not be subject to review;

except that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 14.2:

- (i) any suit by the Association to collect assessments or other amounts due from any Owner;
- (ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Part Two of this Declaration (relating to creation and maintenance of community standards);
- (iii) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;
- (iv) any suit in which any indispensable party is not a Bound Party; and
- (v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 14.2(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

14.2. Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice to each Respondent and to the Board stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;
- (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- (iii) the Claimant's proposed resolution or remedy; and
- (iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) Mediation. If the parties have not resolved the Claim through negotiation within 30 days of the date of the notice described in Section 14.2(a) (or within such other period as the

parties may agree upon), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the Kerrville area.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Party shall bear its own costs of the mediation, including attorneys fees, and each Party shall share equally all fees charged by the mediator.

#### Alternative Dispute Resolution Process



(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

#### 14.3. Initiation of Litigation by Association.

In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association shall not initiate any judicial or administrative proceeding unless first approved by a vote of Voting Members entitled to cast 75% of the total Class "A" votes in the Association, except that no such approval shall be required for actions or proceedings:

- (a) initiated during the Class "B" Control Period;
- (b) initiated to enforce the provisions of this Declaration, including collection of assessments and foreclosure of liens;

- (c) initiated to challenge ad valorem taxation or condemnation proceedings;
- (d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or
- (e) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This Section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

#### Article XV Private Amenities

##### 15.1. General.

Neither membership in the Association nor ownership or occupancy of a Unit shall confer any ownership interest in or right to use any Private Amenity. Rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as may be determined from time to time by the respective owners of the Private Amenities. The owners of the Private Amenities shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities, including, without limitation, eligibility for and duration of use rights, categories of use and extent of use privileges, and number of users, and shall also have the right to reserve use rights and to terminate use rights altogether, subject to the terms of any written agreements with their respective members.

##### 15.2. Conveyance of Private Amenities.

All Persons, including all Owners, are hereby advised that no representations or warranties have been or are made by Declarant, the Association, any Builder, or by any Person acting on behalf of any of the foregoing, with regard to the continuing ownership or operation of any Private Amenity. No purported representation or warranty in such regard, either written or oral, shall be effective unless specifically set forth in a written instrument executed by the record owner of the Private Amenity. The ownership or operation of the Private Amenity may change at any time by virtue of, but without limitation, (a) the sale to or assumption of operations of any Private Amenity by a Person other than the current owner or operator; (b) the establishment of, or conversion of the membership structure to, an "equity" club or similar arrangement whereby the members of the Private Amenity or an entity owned or controlled by its members become the owner(s) and/or operator(s) of the Private Amenity; or (c) the conveyance of any Private Amenity to one or more of Declarant's affiliates, shareholders, employees, or independent contractors. Consent of the Association, any Neighborhood Association, any Voting Member, or any Owner shall not be required to effectuate any change in ownership or operation of any Private Amenity, for or without consideration and subject to or free of any mortgage, covenant, lien, or other encumbrance.

15.3. View Impairment.

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Declarant, the Association, or the owner of any Private Amenity, does not guarantee or represent that any view over and across the Private Amenity from Units adjacent to the Private Amenity will be preserved without impairment. Owners of the Private Amenities, if any, shall have no obligation to prune or thin trees or other landscaping, and shall have the right, in their sole and absolute discretion, to add trees and other landscaping to the Private Amenities from time to time. In addition, the owner of any Private Amenity which includes a golf course may, in its sole and absolute discretion, change the location, configuration, size, and elevation of the trees, bunkers, fairways and greens from time to time. Any such additions or changes may diminish or obstruct any view from the Units and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

15.4. Rights of Access and Parking.

There is hereby established for the benefit of the Private Amenity and their members (regardless of whether such members are Owners hereunder), guests, invitees, employees, agents, contractors, and designees, a right and nonexclusive easement of access and use over all roadways located within Comanche Trace Ranch reasonably necessary to travel between the entrance to Comanche Trace Ranch and the Private Amenity and over those portions of Comanche Trace Ranch (whether Common Area or otherwise) reasonably necessary to the operation, maintenance, repair, and replacement of the Private Amenity. Without limiting the generality of the foregoing, members of the Private Amenity and guests and invitees of the Private Amenity shall have the right to park their vehicles on the roadways located within Comanche Trace Ranch at reasonable times before, during, and after tournaments and other similar functions held by or at the Private Amenity to the extent that the Private Amenity has insufficient parking to accommodate such vehicles.

15.5. Assessments.

In consideration of the fact that the Private Amenity will benefit from maintenance of the roads, rights-of-way, and Common Areas within Comanche Trace Ranch, the Private Amenity shall be obligated to pay assessments to the Association as provided in Article VIII. In addition, the Association may enter into a contractual arrangement or covenant to share costs with any Private Amenity obligating the Private Amenity to contribute funds for, among other things, shared property or services and/or a higher level of Common Area maintenance.

15.6. Architectural Control.

Declarant, the Association, any Neighborhood Association, or any committee shall not approve any construction, addition, alteration, change, or installation on or to any portion of Comanche Trace Ranch which is adjacent to, or otherwise in the direct line of sight of, any Private Amenity without giving the Private Amenity at least 15 days prior written notice of its intent to approve the same together with copies of the request and all other documents and information finally submitted in such regard. The Private Amenity shall then have 15 days to respond in writing approving or disapproving the proposal, stating in detail the reasons for any disapproval. The failure of the Private Amenity to respond to the notice within the 15-day

period shall constitute a waiver of the Private Amenity's right to object to the matter. This Section shall also apply to any work on the Common Area or any common property or common elements of a Neighborhood Association, if any.

15.7. Limitations on Amendments.

In recognition of the fact that the provisions of this Article are for the benefit of the Private Amenity, no amendment to this Article, and no amendment in derogation of any other provisions of this Declaration benefiting any Private Amenity, may be made without the written approval of the Private Amenity. The foregoing shall not apply, however, to amendments made by Declarant.

15.8. Jurisdiction and Cooperation.

It is Declarant's intention that the Association and the Private Amenity shall cooperate to the maximum extent possible in the operation of Comanche Trace Ranch and the Private Amenity. Each shall reasonably assist the other in upholding the Community-Wide Standard as it pertains to maintenance and the Architectural Guidelines. The Association shall have no power to promulgate Use Restrictions or Rules other than those set forth in Exhibit "C" affecting activities on or use of the Private Amenity without the prior written consent of the owners of the Private Amenity affected thereby.

**Article XVI Hunting; Wildlife and Game Management.**

A significant portion of the property described in Exhibits "A" and "B" of this Declaration has been used for hunting for numerous years. Responsible wildlife and game management requires that hunting activities continue in the area. Declarant reserves the right to permit hunting and game management activities within undeveloped areas and other property within the real property described in Exhibit "A" or "B," as it designates for such activities. Declarant may institute a hunting program for the designated areas, which program may include both sporting and wildlife and game management aspects. No hunting or other discharge of firearms shall be permitted within the Properties except as Declarant specifically authorizes in accordance with this Section.

Each Owner, by purchasing a Unit, hereby expressly assumes the risk of noise, personal injury, or property damage caused by authorized hunting or sport shooting activities within the real property described in Exhibit "A" or "B." Each such Owner agrees that Declarant, the Association, and any of Declarant's affiliates or agents shall not be liable to the Owner or any other Person claiming any loss or damage, including, without limitation, indirect, special, or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment, or any other alleged wrong or entitlement to remedy, based upon, due to, or arising from or otherwise related to such authorized hunting or shooting activities, including, without limitation, any claim arising in whole or in part from the negligence of Declarant, any of Declarant's affiliates or agents, or the Association. The Owner hereby agrees to indemnify and hold harmless Declarant, Declarant's affiliates and agents, and the Association against any and all such claims by the Owner's visitors, tenants, and others upon such Owner's Unit.

## Article XVII Mortgagee Provisions

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The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in Comanche Trace Ranch. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

### 17.1. Notices of Action.

An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of Comanche Trace Ranch or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Unit or the Owner or occupant which is not cured within 60 days;

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders.

### 17.2. Special FHLMC Provision.

So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least 67% of the first Mortgagees or Voting Members representing at least 67% of the total Association vote consent, the Association shall not:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly (the granting of easements for utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);

(b) Change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Unit (a decision, including contracts, by the Board or provisions of any declaration subsequently Recorded on any portion of Comanche Trace Ranch regarding assessments for Neighborhoods or other similar areas shall not be subject

to this provision where such decision or subsequent declaration is otherwise authorized by this Declaration);

(c) By act or omission change, waive, or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance or maintenance of Units and the Common Area (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(d) Fail to maintain insurance, as required by this Declaration; or

(e) Use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

#### 17.3. Other Provisions for First Lien Holders.

To the extent not inconsistent with Texas law:

(a) Any restoration or repair of Comanche Trace Ranch after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the Eligible Holders of first Mortgages on Units to which more than 50% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of first Mortgages on Units to which more than 50% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.

#### 17.4. Amendments to Documents.

The following provisions do not apply to amendments to the constituent documents or termination of the Association as a result of destruction, damage, or condemnation pursuant to Section 17.3(a) and (b), or to the addition of land in accordance with Article IX.

(a) The consent of Voting Members representing at least 67% of the Class "A" votes and of Declarant, so long as it owns any land subject to this Declaration, and the approval of the Eligible Holders of first Mortgages on Units to which at least 67% of the votes of Units subject to a Mortgage appertain, shall be required to terminate the Association.

(b) The consent of Voting Members representing at least 67% of the Class "A" votes and of Declarant, so long as it owns any land subject to this Declaration, and the approval of Eligible Holders of first Mortgages on Units to which more than 50% of the votes of Units subject to a Mortgage appertain, shall be required materially to amend any provisions of the Declaration, By-Laws, or Articles of Incorporation, or to add any material provisions thereto which establish, provide for, govern, or regulate any of the following:

- (i) voting;
- (ii) assessments, assessment liens, or subordination of such liens;
- (iii) reserves for maintenance, repair, and replacement of the Common Area;
- (iv) insurance or fidelity bonds;
- (v) rights to use the Common Area;
- (vi) responsibility for maintenance and repair of Comanche Trace Ranch;
- (vii) expansion or contraction of Comanche Trace Ranch or the addition, annexation, or withdrawal of Properties to or from the Association;
- (viii) boundaries of any Unit;
- (ix) leasing of Units;
- (x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Unit;
- (xi) establishment of self-management by the Association where professional management has been required by an Eligible Holder; or
- (xii) any provisions included in the Governing Documents which are for the express benefit of holders, guarantors, or insurers of first Mortgages on Units.

17.5. No Priority.

No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

17.6. Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

17.7. Failure of Mortgagee to Respond.

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Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

17.8. Construction of Article XVII.

Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under this Declaration, the By-Laws, or Texas law for any of the acts set out in this Article. To the fullest extent permitted by Texas law, the provisions of this Article shall prevail, unless specifically prohibited by Texas law then Texas law, the Declaration, and the By-Laws (in that order) shall prevail.

17.9. HUD/VA Approval.

As long as there is a Class "B" membership, the following actions shall require the prior approval of the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs, if either such agency is insuring or guaranteeing the Mortgage on any Unit: merger, consolidation or dissolution of the Association; annexation of additional property other than that described in Exhibit "B"; dedication, conveyance or mortgaging of Common Area; or material amendment of this Declaration or the By-Laws. The granting of easements for utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a conveyance within the meaning of this Section.

**PART SEVEN: CHANGES IN THE COMMUNITY**

*Communities such as Comanche Trace Ranch are dynamic and constantly evolving as circumstances, technology, needs and desires, and laws change, as the residents age and change over time, and as the surrounding community changes. Comanche Trace Ranch and its Governing Documents must be able to adapt to these changes while protecting the things that make Comanche Trace Ranch unique.*

**Article XVIII Changes in Ownership of Units**

Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Unit Owner, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

## Article XIX Changes in Common Area

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### 19.1. Condemnation.

If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Voting Members representing at least 67% of the total Class "A" votes in the Association and of Declarant, as long as Declarant owns any property subject to the Declaration or which may be made subject to the Declaration in accordance with Section 9.1) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking Declarant, so long as Declarant owns any property subject to the Declaration or which may be made subject to the Declaration in accordance with Section 9.1, and Voting Members representing at least 75% of the total Class "A" vote of the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 7.3(c) regarding funds for restoring improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

### 19.2. Partition.

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action partition of any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

### 19.3. Transfer or Dedication of Common Area.

The Association may dedicate portions of the Common Area to the City of Kerrville, or to any other local, state, or federal governmental or quasi-governmental entity, subject to such approval as may be required by Sections 17.9 and 19.4.

### 19.4. Actions Requiring Owner Approval.

If either the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs insures or guarantees the Mortgage on any Unit, then the following actions shall require the prior approval of Voting Members representing not less than

two-thirds (2/3) of the total Class "A" votes in the Association and the consent of the Class "B" Member, if such exists: merger, consolidation or dissolution of the Association; annexation of additional property other than that described in Exhibit "B;" and dedication, conveyance or mortgaging of Common Area. Notwithstanding anything to the contrary in Section 19.1 or this Section, the Association, acting through the Board, may grant easements over the Common Area for installation and maintenance of utilities and drainage facilities and for other purposes not inconsistent with the intended use of the Common Area, without the approval of the membership.

## **Article XX Amendment of Declaration**

### **20.1. By Declarant.**

In addition to specific amendment rights granted elsewhere in this Declaration, until termination of the Class "B" Control Period Declarant may unilaterally amend this Declaration for any purpose. Thereafter, Declarant may unilaterally amend this Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state, or federal governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent in writing.

In addition, so long as Declarant owns property described in Exhibit "A" or "B" for development as part of Comanche Trace Ranch, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon the rights of more than 2% of the Owners.

### **20.2. By Members.**

Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing 75% of the total Class "A" votes in the Association, including 75% of the Class "A" votes held by Members other than Declarant, and Declarant's consent, so long Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1. In addition, the approval requirements set forth in Article XVII shall be met, if applicable.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

20.3. Validity and Effective Date.

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No amendment may remove, revoke, or modify any right or privilege of Declarant or the Class "B" Member without the written consent of Declarant or the Class "B" Member, respectively (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon Recording, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its Recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

20.4. Exhibits.

Exhibits "A," and "B" are attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by this Article. Exhibit "C" is attached for informational purposes and may be amended as provided in Article III. Exhibit "D" may be amended as provided therein.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration the date and year first written above.

DECLARANT:

COMANCHE TRACE RANCH AND  
GOLF CLUB, L.L.L.P., a Colorado  
Limited liability limited partnership

BY: COMANCHE TRACE, L.L.C., a Colorado  
limited liability company, General Partner

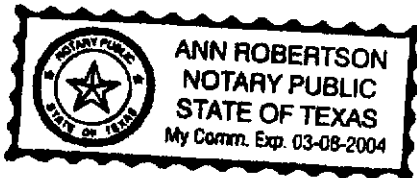
By:

Thomas N. Morrill  
Thomas N. Morrill, Manager

STATE OF Texas

COUNTY OF Lee

The foregoing instrument was acknowledged before me on this the 29 day of August, 2000, by \_\_\_\_\_ (personally known to me or produced as identification), Thomas N. Morrill, Manager of COMANCHE TRACE, L.L.C., a Colorado limited liability company, on behalf of the company in its capacity as general partner of COMANCHE TRACE RANCH AND GOLF CLUB, L.L.L.P., a Colorado limited liability limited partnership.



Ann Robertson  
Notary Public for State of \_\_\_\_\_  
Notary's Name Printed: \_\_\_\_\_

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

EXHIBIT "A"

Land Initially Submitted

EXHIBIT "A"

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All of the property and lots described in and made the subject of the plat of Comanche Trace  
Phase I, Section 5, of record in Volume 7, Page 59, Plat Records, Kerr County, Texas.

EXHIBIT "B"

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Land Subject to Annexation

TRACT I - 1,131.7 acres, more or less, described in the attached description

TRACT II - 46.52 acres, more or less, described in the attached description

SAVE AND EXCEPT a 2 acre tract described in the attached description

SAVE AND EXCEPT a 1.73 acre tract described in the attached description

FIELD NOTES DESCRIPTION FOR 1131.78 ACRES OF LAND OUT OF  
THE CRYSTAL LAND COMPANY LAND BETWEEN STATE HIGHWAY  
NO. 173 AND FM HIGHWAY NO. 2771 IN KERR COUNTY, TEXAS

EXHIBIT "B"

Being all of a certain tract or parcel of land containing 1131.78 acres, more or less, out of Original Patent Surveys in Kerr County, Texas as follows:

Survey No.	Survey	Abstract No.	Acres
63	William T. Crook	116	60.84
64	William Watt	363	127.94
65	William Watt	364	475.70
66	William Watt	365	447.83
394	Thomas Jackson	212	19.47

comprising all of a certain 1024.49 acre tract conveyed from the Farm Credit Bank of Texas to Crystal Land Company, L. L. C. by a Special Warranty Deed with Vendor's Lien executed the 10th day of October, 1996 and recorded in Volume 871 at Page 629 of the Real Property Records of Kerr County, Texas and part of a certain 290.90 acre tract conveyed from Clint Hendricks to Crystal Land Co. L. L. C. by a Special Warranty Deed with Vendor's Lien executed the 12th day of March, 1996 and recorded in Volume 841 at Page 58 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron stake found at a fence intersection in the southeast line of a 700 acre tract conveyed from Bascom Giles to the Heirs of Mrs. Alliwes Clark by a Deed of Acquittance executed the 10th day of November, 1954 and recorded in Volume 1 at Page 448 of the Patent Records of Kerr County, Texas for a westerly corner of the herein described tract and 1024.49 acre tract, the west corner of said Survey No. 65 and the north corner of a certain 796.90 acre tract conveyed as FIRST TRACT from Julius Neunhoffer, et ux, to Oscar Neunhoffer, Jr. by a Warranty Deed executed the 4th day of December, 1967 and recorded in Volume 131 at Page 307 of the Deed Records of Kerr County, Texas; which point bears 328.7 ft. N.36°25'E. from a 60 "d" nail set in a Live Oak tree stump and 317.2 ft. N.13°15'E. from a 60 "d" nail set in the root remains of a Live Oak tree;

THENCE, along a fence with the common line between said 1024.49 and 700 acre tracts: N.44°54'43"E., 1590.88 ft. to a fence cornerpost marked with a set 1/2" iron stake which bears 4.7 ft. N.84°06'W. from a 24" diameter Live Oak tree for a reentrant corner of the herein described tract and 1024.49 acre tract, an easterly corner of 700 acre tract; N.44°35'03"W., 1274.51 ft. to a 1/2" iron stake found at a fence cornerpost for a westerly corner of the herein described tract and 1024.49 acre tract, a reentrant corner of 700 acre tract; and N.44°21'45"E., 1672.86 ft. to a fence cornerpost marked with a set 1/2" iron stake for a reentrant corner of the herein described tract and 1024.49 acre tract and an easterly corner of 700 acre tract;

THENCE, along a fence continuing with the said common line between 1024.49 and 700 acre tracts: N.44°14'58"W., 1496.16 ft. to a 1/2" iron stake found at a fence cornerpost for a westerly corner of the herein described tract and 1024.49 acre tract, a reentrant corner of 700 acre tract;

THENCE, continuing with the said common line between 1024.49 and 700 acre tracts, N.44°49'34"E., near a fence, 1751.06 ft. to a 1/2" iron stake found in a rock mound (which bears 5.48 ft. S.41°22'E. from a 1/2" iron stake found in said fence) for the south corner of a certain 38.86 acre tract patented to Norma P. Schweitzer by a Patent executed the 22nd day of November, 1965 and recorded in Volume 1 at Page 448 of the Patent Records of Kerr County, Texas, an easterly corner of 700 acre tract;

THENCE, with the common line between said 1024.49 and 38.86 acre tracts N.44°43'04"E., near a fence 869.76 ft. to an "eye" hook found in a rock mound (which bears 4.8 ft. S.45°E. from said fence) for the east corner of 38.86 acre tract, the south corner of a certain 285.38 acre tract conveyed from Otto Pankratz, Jr. to Chas. L. Schweitzer, Jr., et ux by a Warranty Deed executed the 7th day of June, 1939 and recorded in Volume 64 at Page 412 of the Deed Records of Kerr County, Texas;

THENCE, continuing with the common line between said 1024.49 and 285.38 acre tracts N.44°47'12"E., near a fence 758.60 ft. to a 1/2" iron stake found near a fence for a northerly corner of the herein described tract and 1024.49 acre tract;

THENCE, along or near a fence with the north line of said 1024.49 acre tract, upon, over and across a certain 1280.65 acre tract conveyed from J. F. Johnson to Carl Meek, et ux, by a Warranty Deed with Vendor's Lien executed the 4th day of

January, 1962 and recorded in Volume 111 at Page 402 of the Deed Records of Kerr County, Texas: S.45°07'59"E., 644.65 ft. to a 1/4" iron stake found at a fence anglepost; and S.80°31'59"E., 1075.67 ft. to a 1/4" iron stake found at a fence cornerpost for a reentrant corner of the herein described tract and 1024.49 acre tract;

THENCE, along a fence with the north line of said 1024.49 acre tract, continuing upon, over and across said 1280.65 acre tract: N.45°16'46"E., 305.53 ft. to a 1/4" iron stake found at a fence anglepost; and N.43°38'50"E., 2642.98 ft. to a 1/4" iron stake found at a fence cornerpost for a reentrant corner of 1280.65 acre tract, the south corner of a certain 85 acre tract conveyed from Lee Mosty, et ux, to Harvey Mosty by a Warranty Deed executed the 15th day of April, 1932 and recorded in Volume 54 at Page 544 of the Deed Records of Kerr County, Texas;

THENCE, along a fence with the common line between said 1024.49 and 85 acre tracts N.44°38'57"E., at 2179.87 ft. passing a 1/4" iron stake found at a fence cornerpost in the southwest right-of-way line of F. M. Highway No. 689 (State Highway No. 173) and southwest line of a certain 4.518 acre tract conveyed as Parcel 17, Part 2 from Carl D. Mock, et ux, to the State of Texas by a Right-of-Way Easement executed the 1st day of February, 1962 and recorded in Volume 3 at Page 299 of the Easement Records of Kerr County, Texas, then continuing not along a fence with the northwest line of Parcel 17, Part 2 for a total distance of 2219.77 ft. to a 1/4" iron stake set for the north corner of the herein described tract, 1024.49 acre tract and Parcel 17, Part 2;

THENCE, with the northeast line of said 1024.49 acre tract and Parcel 17, Part 2: S.51°49'20"E., 138.89 ft. to a set P-K nail; S.48°21'20"E., 138.89 ft. to a set P-K nail; S.44°06'20"E., 138.89 ft. to a set P-K nail; S.39°25'20"E., 200.00 ft. to a set P-K nail; and S.32°55'08"E., 755.74 ft. to a concrete right-of-way marker found for a reentrant corner of the herein described tract and 1024.49 acre tract;

THENCE, continuing with the northeast line of said 1024.49 acre tract, N.61°04'27"E., at 0.9 ft. passing a chain link fence cornerpost, then continuing near a chain link fence at approximately 88.6 ft. passing the south corner of a certain 0.88 acre tract conveyed from Marvin D. Haass to William E. Bowden, et ux, by a Warranty Deed with Vendor's Lien executed the 2nd day of July, 1974 and recorded in Volume 173 at Page 644 of the Deed Records of Kerr County, Texas, then continuing with the common line between 1024.49 and 0.88 acre tracts at 359.5 ft. passing 3.7 ft. N.29°W. of a chain link fence cornerpost, at 360.46 ft. passing a found 1/4" iron reference stake on the west bank of Flatrock Lake (on the Guadalupe River), then continuing for a total distance of 418.56 ft. to an unmarked point in the lake on the original west bank of the Guadalupe River (prior to impoundment) for a northerly corner of the herein described tract and 1024.49 acre tract, the east corner of 0.88 acre tract;

THENCE, with the east line of said 1024.49 acre tract along the original west bank of the Guadalupe River: S.20°45'00"E., 60.60 ft. to an unmarked point which bears 100.00 ft. N.72°07'30"E. from a set 1/4" iron reference stake; S.15°00'00"E., 61.90 ft. to an unmarked point which bears 100.00 ft. N.77°37'30"E. from a set 1/4" iron reference stake; S.09°45'00"E., 127.20 ft. to an unmarked point which bears 100.00 ft. N.81°15'00"E. from a set 1/4" iron reference stake; S.07°45'00"E., 129.00 ft. to an unmarked point which bears 100.00 ft. N.83°15'00"E. from a set 1/4" iron reference stake; S.05°45'00"E., 242.00 ft. to an unmarked point which bears 100.00 ft. N.85°57'55"E. from a set 1/4" iron reference stake; and S.02°19'10"E., 171.22 ft. to a 1/4" iron rod found on the said west bank of the Guadalupe River in the northwest line of a certain 24.00 acre tract conveyed from Andrew Anderson to Foss Robert McCracken, et al, by a Deed executed the 3rd day of September, 1993 and recorded in Volume 711 at Page 209 of the Real Property Records of Kerr County, Texas for the east corner of the herein described tract and 1024.49 acre tract;

THENCE, with the common line between said 1024.49 and 24.00 acre tracts S.45°16'53"W., 362.02 ft. to a concrete right-of-way marker found in the east right-of-way line of the "old" FM Highway No. 689 for an easterly corner of the herein described tract and 1024.49 acre tract, the northwest corner of 24.00 acre tract;

THENCE, continuing with the southeast line of said 1024.49 acre tract: N.01°04'51"E. along the said east right-of-way line of the "old" FM Highway No. 689, 73.52 ft. to a concrete right-of-way marker found for a reentrant corner of the herein described tract and 1024.49 acre tract; N.45°33'21"W. across the "old" FM Highway No. 689, 112.35 ft. to a concrete right-of-way marker found in the east right-of-way line of the "new" FM Highway No. 689 (State Highway No. 173) for a reentrant corner of the herein described tract and 1024.49 acre tract; and S.00°34'46"W. with the said east right-of-way line of the "new" FM Highway No. 689 (State Highway No. 173), 234.99 ft. to a concrete right-of-way marker found in the northwest line of a certain 356.20 acre tract conveyed from Rancho River Ridge, Ltd. to Louis M. Howard, et ux, by a

Page 3 - 1131.78 acres of the Crystal Land Co., L. L. C. land

Special Warranty Deed executed the 12th day of August, 1994 and recorded in Volume 760 at Page 129 of the Real Property Records of Kerr County, Texas;

THENCE, with the common line between said 1024.49 and 356.20 acre tracts S.44°35'37"W., 205.13 ft. to a 1/4" iron stake set near a fencepost in the west right-of-way line of the "new" FM Highway No. 689 (State Highway No. 173);

THENCE, along a fence continuing with the said common line between 1024.49 and 356.20 acre tracts S.44°27'48"W. 5471.92 ft. to a 1/4" iron stake found at a fence cornerpost for a reentrant corner of the herein described tract and 1024.4 acre tract, the west corner of 356.20 acre tract;

THENCE, along a fence continuing with the said common line between 1024.49 and 356.20 acre tracts: S.46°27'39"E. 579.31 ft. to a fence anglepost marked with a set 1/4" iron stake; and S.23°23'27"E., 1526.97 ft. to a fence cornerpost marked with a set 1/4" iron stake for an easterly corner of the herein described tract and 1024.49, the north corner of a certain 10. acre tract conveyed from Harry Karger, et ux, to H. H. Hamrick, et ux, by a Deed executed the 23rd day of October, 1941 and recorded in Volume 80 at Page 627 of the Deed Records of Kerr County, Texas;

THENCE, along a fence with the common line between said 1024.49 and 101 acre tracts S.44°28'18"W., 1764.79 ft. to a fence cornerpost marked with a found 1/4" iron stake for a reentrant corner of Tract 1, the west corner of 101 acre tract, the north corner of a certain 8.00 acre tract conveyed from the Farm Credit Bank of Texas to Crystal Land Company, L. L. C. by a Special Warranty Deed with Vendor's Lien executed the 21st day of June, 1996 and recorded in Volume 855 at Page 680 of the Real Property Records of Kerr County, Texas and the north corner of The Homestead at Turtle Creek, a subdivision of Kerr County according to the plat of record in Volume 6 at Page 309 of the Plat Records of Kerr County, Texas;

THENCE, along a fence with the common line between said 1024.49 acre tract and The Homestead at Turtle Creek all calls to fence angleposts with found 1/4" iron stakes: S.44°31'28"W., at 834.85 ft. passing a 1/4" iron stake found for the west corner of 8.00 acre tract, the northwest corner of a certain 290.90 acre tract conveyed from Clint Hendricks to Crystal Land Company, L. L. C. by a Special Warranty Deed with Vendor's Lien executed the 12th day of March, 1996 and recorded in Volume 841 at Page 58 of the Real Property Records of Kerr County, Texas, then continuing for a total distance of 1419.28 ft.; S.33°03'39"W., 437.73 ft.; and S.15°35'16"W., 255.03 ft. to a 1/4" iron stake found for a reentrant corner of the herein described tract, the southwest corner of the Homestead at Turtle Creek;

THENCE, upon, over and across said 1024.49 acre tract: S.16°44'56"W., 377.84 ft. to a set 1/4" iron stake; and S.14°27'18"W., 722.54 ft. to a 1/4" iron stake set for a reentrant corner of the herein described tract;

THENCE, continuing upon, over and across said 1024.49 acre tract S.71°47'33"E., at 40.09 ft. passing a fence, the common line between 1024.49 and 290.90 acre tracts, then continuing upon, over and across said 290.90 acre tract for a total distance of 2496.44 ft. to a 1/4" iron stake set in a fence, the east line of said 290.90 acre tract and west line of The Woods, a subdivision of Kerr County according to the plat of record in Volume 4 at Page 137 of the Plat Records of Kerr County, Texas for an easterly corner of the herein described tract;

THENCE, along said fence with the common line between 290.90 acre tract and The Woods: S.18°12'27"W., 466.77 ft. to a 1/4" iron stake found for the southwest corner of The Woods, the northerly northwest corner of The Woods Section Two, a subdivision of Kerr County according to the plat of record in Volume 4 at Page 176 of the Plat Records of Kerr County, Texas;

THENCE, continuing along said fence with the common line between 290.90 acre tract and The Woods Section Two: S.18°12'27"W., 1511.71 ft. to a fence anglepost for the southeast corner of the herein described tract and 290.90 acre tract, a reentrant corner of The Woods Section Two; and S.82°36'26"W., 1521.62 ft. to a fence cornerpost in the northeast right-of-way line of F. M. Highway No. 2771 for the southwest corner of the herein described tract and 290.90 acre tract, the westerly northwest corner of The Woods Section Two;

THENCE, along or near a fence with the west line of said 290.90 acre tract and the northeast right-of-way line of F. M. Highway No. 2771: N.16°59'13"E., 423.22 ft. to a concrete right-of-way marker found at the beginning of 06°00' curve to the left; and 1508.92 ft. along the arc of said curve to the left subtended by a 90°31'24" central angle and 955.06 ft. radius (long chord: N.28°17'26"W., 1356.81 ft.) to a 1/4" iron stake found near a fence cornerpost in the north line of a certain

08/15/00 10:39 FAX 1 830 257 8119

WALLACE, JACKSON, MACHANN

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Page 4 - 1131.76 acres of the Crystal Land Co., L. L. C. land

6.404 acre tract conveyed from Herbert J. Jones, et ux, to the State of Texas by a Deed executed the 30th day of July, 1963 and recorded in Volume 115 at Page 611 of the Deed Records of Kerr County, Texas for the south common corner of said 290.90 acre tracts;

THENCE, along or near a fence with the said south line of said 1024.49 acre tract and north right-of-way line of F. M. Highway No. 2771 and north line of said 6.404 acre tract 79.51 ft. along the arc of a  $05^{\circ}59'59''$  curve to the left subtended by a  $04^{\circ}46'11''$  central angle and 935.06 ft. radius (long chord: N.75°36'14"W., 79.48 ft.) to a  $\frac{1}{4}$ " iron stake found for the recurrent corner of the herein described tract and 1024.49 acre tract, the northwest corner of 6.404 acre tract and the northeast corner of a certain 1.747 acre tract conveyed from Carl D. Meek, et ux, to the State of Texas by a Right-of-Way Easement executed the 30th day of July, 1963 and recorded in Volume 3 at Page 409 of the Easement Records of Kerr County, Texas;

THENCE, upon, over and across said FM Highway No. 2771 with the south line of 1024.49 acre tract and the common line between said 6.404 and 1.747 acre tracts S.11°34'05"W., 100.00 ft. to a  $\frac{1}{4}$ " iron stake found in the south right-of-way line of FM Highway No. 2771 for the southeast corner of the herein described tract, the south common corner of 6.404 and 1.747 acre tracts and the northeast corner of a certain 1072.60 acre tract conveyed from Dorothy Dean Tate, et vir, to William C. Childs by a Warranty Deed executed the 18th day of September, 1992 and recorded in Volume 656 at Page 793 of the Real Property Records of Kerr County, Texas;

THENCE, along the south line of said 1024.49 acre tract with the said south right-of-way line of FM Highway No. 2771, the common line between 1.747 and 1072.60 acre tracts: 523.29 ft. along the arc of a  $06^{\circ}42'04''$  curve to the left subtended by a  $35^{\circ}03'53''$  central angle and 855.05 ft. radius (long chord: S.84°09'31"W., 515.16 ft.) to a concrete right-of-way marker found at its end; and S.66°36'40"W., 205.11 ft. to a  $\frac{1}{4}$ " iron stake found for the southwest corner of the herein described tract, 1024.49 acre tract and 1.747 acre tract;

THENCE, upon, over and across said FM Highway No. 2771 with the west line of said 1024.49 and 1.7474 acre tracts N.34°36'52"W., at approximately 51 ft. passing the southeast corner of said FIRST TRACT, then continuing with the common line between 1024.49 acre tract and FIRST TRACT for a total distance of 102.08 ft. to a  $\frac{1}{4}$ " iron stake set near a fence cornerpost in the north right-of-way line of FM Highway No. 2771 for the northwest corner of 1.747 acre tract;

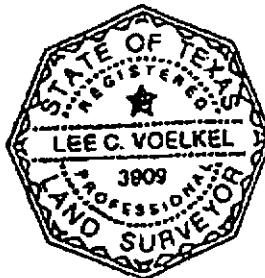
THENCE, along a fence with the common line between said 1024.49 acre tract and FIRST TRACT: N.34°36'52"W., at 1097.84 ft. passing a 1" iron pipe found in the common line between said Survey Nos. 64 and 394, then continuing for a total distance of 1459.40 ft. to a  $\frac{1}{4}$ " iron stake found at a fence anglepost; N.30°03'47"W., 274.56 ft. to a  $\frac{1}{4}$ " iron stake found at a fence cornerpost; N.41°20'34"E., 234.42 ft. to a  $\frac{1}{4}$ " iron stake found at a fence anglepost; N.13°04'29"W., 143.95 ft. to a  $\frac{1}{4}$ " iron stake found at a fence anglepost; N.29°21'34"W., 1438.86 ft. to a  $\frac{1}{4}$ " iron stake found at a fence anglepost; and N.45°23'10"W., 506.39 ft. to the PLACE OF BEGINNING.

I hereby certify that these field notes and accompanying plat are accurate descriptions of the property contained therein as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all property corners are as stated. (Bearing basis = True north based on GPS observations)

Dates Surveyed: 02/20/96  
09/20/96  
10/15/97  
05/05/98

Dated this 6th day of May, 1998

*Lee C. Voelkel*  
Lee C. Voelkel  
Registered Professional Land Surveyor No. 3909  
County Surveyor for Kerr County



Being all of a certain tract or parcel of land containing 46.52 acres of land, more or less, out of various original patent surveys in Kerr County, Texas as follows:

SURVEY NO.	SURVEY	ABSTRACT	ACRES
395	Mrs. Alliweses Clark	101	24.08
S. F. 16211	Norma P. Schweitzer	2086	11.98
67	David Schauchard	299	10.46

part of a certain 756.52 acre tract conveyed from the George Milton Underwood III Income Trust Two, et al to the GMU Family Partnership, Ltd. by a Special Warranty Deed executed the 7<sup>th</sup> day of July, 1998, and recorded in Volume 962 at Page 679 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a three-way fence cornerpost for the south corner of the herein described tract and said 756.52 acres, a westerly corner of 1131.78 acres conveyed from Crystal Land Company, LLC to Comanche Trace Ranch and Golf Club, LLLP by a Deed Without Warranty executed the 17<sup>th</sup> day of September, 1998 and recorded in Volume 971 at Page 707 of the Real Property Records of Kerr County, Texas, in the northeast line of 796.90 acres conveyed as First Tract from Julius R. Neunhoffer, et ux to Oscar Neunhoffer, Jr. by a deed executed the 4<sup>th</sup> day of December, 1967 and recorded in Volume 131 at Page 317 of the Deed Records of Kerr County, Texas; which point bears 1751.06 ft. S.44°49'34"W. from a ½" iron stake found in a stone mound at the east corner of said Survey No. 395;

THENCE, along or near a fence with the common line between said 796.9 acres and said 756.52 acres: N.44°19'22"W., 600.07 ft. to a ½" iron stake set for the west corner of the herein described tract;

THENCE, upon, over and across said 756.52 acres: N.44°47'22"E., 3370.11 ft. to a ½" iron stake set for the north corner of the herein described tract; S.45°12'38"E., 600.00 ft. to a found ½" iron stake for the east corner of the herein described tract in the west line of said 1131.78 acres from which a found ½" iron stake in fence bears N.37°05'W., 5.19 ft.;

THENCE, with the common line between said 756.52 and 1131.78 acre tracts, S.44°47'12"W., 758.60 ft. to an "eye" hook found in a rock mound (which bears 4.8 ft. S.45°E. from said fence); S.44°43'04"W., 869.76 ft. to a ½" iron stake found in a rock mound (which bears 5.48 ft. S.41°22'E. from a ½" iron stake found in said fence); S.44°49'34"W., 1751.06 ft. to the PLACE OF BEGINNING.

## SAVE AND EXCEPT:

Being all of a certain tract or parcel of land containing 2.00 acres of land, more or less, out of William Watt Survey No. 66, Abstract No. 365 in Kerr County, Texas; part of 1131.78 acres conveyed from Crystal Land Company, LLC, to Comanche Trace Ranch and Golf Club, LLLP by a Special Warranty Deed executed the 17<sup>th</sup> day of September, 1998 and recorded in Volume 971 at Page 698 of the Plat Records of Kerr County, Texas;

BEGINNING at a 1/4" iron stake found at a fence corner, in the southwest right-of-way line of F. M. Highway No. 689 (State Highway No. 173) and southwest line of a certain 4.518 acre tract conveyed as Parcel 17, Part 2 from Carl D. Meek, et ux, to the State of Texas by a Right-of-way Easement executed the 1<sup>st</sup> day of February, 1962 and recorded in Volume 3 at Page 299 of the Easement Records of Kerr County, Texas, the north corner of the herein described tract and the beginning of a 2°29' curve to the right; which point bears 10919.73 ft., N.37°52'04"E. from a fence corner post marked with a found 1/4" iron stake at the occupied south corner of said Survey No. 66;

THENCE, upon, over and across said 1131.78 acre tract, along or near a fence, with the south right-of-way line of said F. M. Highway No. 689 (State Highway No. 173) and said 4.518 acres 303.24 ft. along the arc of said curve to the right subtended by a 07°31'05" central angle and 2311.04 ft. radius (long chord = S.48°07'24"E., 303.02 ft.) to a 1/4" iron stake set at its end; the east corner of the herein described tract;

THENCE, not along a fence, upon, over and across said 1131.78 acres: S.44°32'40"W., 290.37 ft. to a set 1/4" iron stake the south corner of the herein described tract; N.45°48'37"W., 303.21 ft. to a 1/4" iron stake set in a fence, the west corner of the herein described tract, in the southeast line of 85 acres conveyed from Lee Mosty, et ux to Harvey Mosty by a Warranty Deed executed the 15<sup>th</sup> day of April, 1952 and recorded in Volume 54 at Page 544 of the Deed Records of Kerr County, Texas;

THENCE, along or near a fence, with the common line between said 1131.78 acres and said 85 acres N.44°38'57"E., 278.15 ft. to the PLACE OF BEGINNING.

## METES AND BOUNDS DESCRIPTION

FURTHER SAVE AND EXCEPT:

1.73 ACRE

Being a 1.73 acre tract situated in Kerr County, Texas; being all out of and a part of that certain 1024.49 acre tract conveyed from the Farm Credit Bank of Texas to Crystal Land Co. L.L.C. by a Special Warranty Deed With Vendor's Lien executed October 10, 1996, recorded in Volume 871, Page 629 of the Real Property Records of Kerr County, Texas; being comprised of 1.41 acre southwest of the present southwest right of way line of Texas State Highway No. 173 and 0.32 acre lying within the Right of Way Easement of record in Volume 3, Page 299 of the Easement Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2" rebar rod found at the base of a fence corner post in the southwest right of line of F.M. Hwy. No. 689 (State Hwy. No. 173) and the southwest line of a certain 4.518 acre tract conveyed as Parcel 17, Part 2 from Carl D. Meek, et ux, to the State of Texas by a Right of Way easement executed the 1<sup>st</sup> day of February, 1962, recorded in Volume 3, Page 299 of the Easement Records of Kerr County, Texas;

THENCE, N. 44deg. 38'57"E., 39.90 feet to the north corner of said Parcel 17, Part 2 and most northerly corner of said 1024.49 acre tract;

THENCE, with a northeast boundary of said 1024.49 acre tract and said Parcel 17, Part 2:

S. 51deg. 49'20"E., 138.89 ft.

S. 48deg. 21'20"E., 139.89 ft.

S. 44deg. 06'20"E., 138.89 ft. and

S. 39deg. 25'02"E., 54.41 feet to the POINT OF BEGINNING of the herein described tract;

THENCE, continuing with the northeast boundary of said 1024.49 acre tract and Parcel 17, Part 2: S. 39deg. 25'20"E., 145.58 feet and S. 32deg. 55'08"E., 154.93 feet to the east corner of the herein described tract;

THENCE, through the interior of said 1024.79 acre tract and said Parcel 17, Part 2: S. 53deg. 10'46"W., passing at 43.22 feet, the southwest right of way line of F.M. Highway No. 689 (State Hwy. No. 173) and southwest line of Parcel 17, Part 2; continuing through said 1024.49 acre tract another 201.13 feet for a total distance of 244.35 feet to the south corner of the herein described tract;

THENCE, N. 36deg. 49'14"W., 300.00 feet to the west corner of the herein described tract;

THENCE, N. 53deg. 10'46"E., passing at 201.13 feet, the southwest right of way line of F.M. Highway No. 689 (State Hwy. No. 173) and southwest line of Parcel 17, Part 2; continuing through said Parcel 17, Part 2, another 47.15 feet for a total distance of 248.28 feet to the POINT OF BEGINNING, containing 1.73 acre, more or less, within these metes and bounds.

**Initial Restrictions and Rules**

The following restrictions shall apply to all of Comanche Trace Ranch until such time as they are amended, modified, repealed, or limited pursuant to Article III of the Declaration.

1. **General.** Comanche Trace Ranch shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or a sales office for any real estate broker retained by Declarant to assist in the sale of property described in Exhibit "A" or "B," offices for any property manager retained by the Association, or business offices for Declarant or the Association) consistent with this Declaration and any Supplemental Declaration.
2. **Restricted Activities.** The following activities are prohibited within Comanche Trace Ranch unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors:
  - (a) Parking any vehicles on public or private streets or thoroughfares, or parking of commercial vehicles or equipment, mobile homes, recreational vehicles, golf carts, boats and other watercraft, trailers, stored vehicles, or inoperable vehicles in places other than enclosed garages; provided, construction, service and delivery vehicles shall be exempt from this provision during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Area;
  - (b) Raising, breeding, or keeping animals, livestock, or poultry of any kind, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit; however, those pets which are permitted to roam free, or, in the sole discretion of the Board, make excessive noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed by the pet owner upon the Board's request. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed and inoculated as required by law;
  - (c) Any activity which emits foul or obnoxious odors outside the Unit or creates noise or other conditions which tend to disturb the peace or threaten the safety of the occupants of other Units;
  - (d) Any activity which violates local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation;
  - (e) Pursuit of hobbies or other activities which tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Unit;

(f) Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Units;

(g) Outside burning of trash, leaves, debris, or other materials, except during the normal course of constructing a dwelling on a Unit;

(h) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Units, except alarm devices used exclusively for security purposes;

(i) Use and discharge of firecrackers and other fireworks;

(j) Dumping grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within Comanche Trace Ranch, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff, and Declarant and Builders may dump and bury rocks and trees removed from a building site on such building site;

(k) Accumulation of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers;

(l) Obstruction or rechanneling drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Declarant and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent;

(m) Subdivision of a Unit into two or more Units, or changing the boundary lines of any Unit after a subdivision plat including such Unit has been approved and Recorded, except that Declarant shall be permitted to subdivide or replat Units which it owns;

(n) Swimming, motorized boating, or use of personal flotation devices in lakes, ponds, streams, or other bodies of water within Comanche Trace Ranch, except as expressly permitted by Board rule. For example, fishing from the shore shall be permitted with appropriate licenses and Declarant, its successors and assigns, shall be permitted and shall have the exclusive right and easement to retrieve golf balls from bodies of water within the Common Areas and to draw water from lakes, ponds, and streams within Comanche Trace Ranch for purposes of irrigation and such other purposes as Declarant shall deem desirable. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of rivers, lakes, ponds, streams or other bodies of water within or adjacent to Comanche Trace Ranch;

(o) Use of any Unit for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years, except that Declarant and its assigns may operate such a program with respect to Units which it owns;

(p) Discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

(q) On-site storage of gasoline, heating, or other fuels, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. This provision shall not apply to any underground fuel tank authorized pursuant to Article IV;

(r) Any business, trade, garage sale, moving sale, rummage sale, or similar activity, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (ii) the business activity conforms to all zoning requirements for Comanche Trace Ranch; (iii) the business activity does not involve door-to-door solicitation of residents of Comanche Trace Ranch; (iv) the business activity does not, in the Board's reasonable judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in Comanche Trace Ranch which is noticeably greater than that which is typical of Units in which no business activity is being conducted; and (v) the business activity is consistent with the residential character of Comanche Trace Ranch and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of Comanche Trace Ranch, as may be determined in the Board's sole discretion.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

Leasing of a Unit shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by Declarant or a Builder approved by Declarant with respect to its development and sale of Comanche Trace Ranch or its use of any Units which it owns within Comanche Trace Ranch, including the operation of a timeshare or similar program;

(s) Capturing, trapping, or killing of wildlife within Comanche Trace Ranch, except in connection with the activities taking place through Declarant's wildlife and game management program, as described in Article XVI and in circumstances posing an imminent threat to the safety of persons using Comanche Trace Ranch;

(t) Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within Comanche Trace Ranch or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(u) Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Unit without prior approval pursuant to Article IV;

(v) Operation of motorized vehicles on pathways or trails maintained by the Association, except that golf carts may be operated on cart paths intended for such purposes; and

(w) Any construction, erection, placement, or modification of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article IV of the Declaration. This shall include, without limitation, signs, basketball hoops, swing sets and similar sports and play equipment; clotheslines; garbage cans; woodpiles; above-ground swimming pools; and hedges, walls, dog runs, animal pens, or fences of any kind; satellite dishes and antennas, except that:

(i) an antenna designed to receive direct broadcast satellite services, including direct-to-home satellite services, that is one meter or less in diameter;

(ii) an antenna designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or

(iii) an antenna that is designed to receive television broadcast signals;

(collectively, "Permitted Antennas") shall be permitted on Units, subject to such reasonable requirements as to location and screening as may be set forth in the Architectural Guidelines, consistent with applicable law, in order to minimize obtrusiveness as viewed from streets and adjacent property. Declarant and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of Comanche Trace Ranch, should any master system or systems be utilized by the Association and require such exterior apparatus.

3. Prohibited Conditions. The following shall be prohibited at Comanche Trace Ranch:

(a) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of Comanche Trace Ranch;

(b) Structures, equipment, or other items on the exterior portions of a Unit which have become rusty, dilapidated, or otherwise fallen into disrepair; and

(c) Sprinkler or irrigation systems or wells of any type which draw upon water from lakes, creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within Comanche Trace Ranch, except that Declarant and the Association shall have the right to draw water from such sources.

4. Leasing of Units. "Leasing," for purposes of this Paragraph, is defined as regular, exclusive occupancy of a Unit by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. All leases shall be in writing. The Board may require a minimum lease term, which requirements may vary from Neighborhood to Neighborhood. Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Unit Owner within 10 days of execution of the lease. The Owner must make available to the lessee copies of the Declaration, By-Laws, and the Restrictions and Rules.

EXHIBIT "D"

VOL. 1081 PAGE 0709

By-Laws of Comanche Trace Ranch Community Association, Inc.

VOL. 1081 PAGE 0710

**EXHIBIT "D"**

**BY-LAWS**

**OF**

**COMANCHE TRACE RANCH COMMUNITY ASSOCIATION, INC.**

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**BY-LAWS**  
**OF**  
**COMANCHE TRACE RANCH COMMUNITY ASSOCIATION, INC.**

**Article I**  
**Name, Principal Office, and Definitions**

1.1. Name.

The name of the corporation is Comanche Trace Ranch Community Association, Inc. ("Association").

1.2. Principal Office.

The principal office of the Association shall be located in the City of Kerrville, Texas. The Association may have such other offices, either within or outside the State of Texas, as the Board of Directors may determine or as the affairs of the Association may require.

1.3. Definitions.

The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that certain Recorded Declaration of Covenants, Conditions, and Restrictions for Comanche Trace Ranch as it may be amended ("Declaration"), unless the context indicates otherwise.

**Article II**  
**Association: Membership, Meetings, Quorum, Voting, Proxies**

2.1. Membership.

The Association shall have two classes of membership, Class "A" and Class "B," as more fully set forth in the Declaration. The provisions of the Declaration pertaining to membership are incorporated herein by this reference.

2.2. Place of Meetings.

Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as the Board may designate.

2.3. Annual Meetings.

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The first meeting of the Association, whether a regular or special meeting, shall be held within one year from the date of incorporation of the Association. Meetings shall be of Voting Members unless otherwise requested by Texas law or specified by the Board. Subsequent regular annual meetings shall be set by the Board to occur during the third quarter of the Association's fiscal year on a date and at a time set by the Board.

2.4. Special Meetings.

The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting if so directed by resolution of the Board or upon a petition signed by Voting Members representing at least 10% of the total Class "A" votes of the Association.

2.5. Notice of Meetings.

Written or printed notice stating the place, day, and hour of any meeting of Voting Members shall be delivered, either personally or by mail, to each Voting Member entitled to vote at such meeting, not less than 10 nor more than 50 days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered three days after deposit in the United States mail addressed to the Voting Member at such Voting Member's address as it appears on the records of the Association, with postage prepaid.

2.6. Waiver of Notice.

Waiver of notice of a meeting of Voting Members shall be deemed the equivalent of proper notice. Any Voting Member may waive, in writing, notice of any meeting of Voting Members, either before or after such meeting. Attendance at a meeting by a Voting Member shall be deemed a waiver by such Voting Member of notice of the time, date, and place thereof, unless such Voting Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall be deemed a waiver of notice of all business transacted at such meeting, unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7. Adjournment of Meetings.

If any meeting of the Association cannot be held because a quorum is not present, a majority of Voting Members who are present at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have

been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Voting Members in the manner prescribed for regular meetings.

Voting Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Voting Members to leave less than a quorum, provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

2.8. Voting.

The voting rights of the Members shall be as set forth in the Declaration and in these By-Laws, and such voting rights provisions in the Declaration are specifically incorporated herein by this reference.

2.9. Proxies.

Voting Members may not vote by proxy but only in person or through their designated alternates. On any matter as to which a Member is entitled personally to cast the vote for a Unit, such vote may be cast in person, by written ballot, or by proxy, subject to the limitations of Texas law relating to use of general proxies and subject to any specific provision to the contrary in the Declaration or these By-Laws.

Every proxy shall be in writing specifying the Unit for which it is given, signed by the Member or such Member's duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast. In the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.

Every proxy shall be revocable and shall automatically cease upon: (a) conveyance of any Unit for which it was given; (b) receipt by the Secretary of written notice of revocation of the proxy or of the death or judicially declared incompetence of a Member who is a natural person; or (c) 11 months from the date of the proxy, unless a shorter period is specified in the proxy.

2.10. Majority.

As used in these By-Laws, the term "majority" shall mean those votes, Owners, or other group as the context may indicate, totaling more than 50% of the total eligible number thereof.

2.11. Quorum.

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Except as otherwise provided in these By-Laws or in the Declaration, the presence of Voting Members representing a majority of the total Class "A" votes in the Association shall constitute a quorum at all meetings of the Association.

2.12. Conduct of Meetings.

The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

2.13. Action Without a Meeting.

Any action required or permitted by law to be taken at a meeting of Voting Members may be taken without a meeting, without prior notice, and without a vote, if written consent specifically authorizing the proposed action is signed by Voting Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all Voting Members entitled to vote thereon were present. Such consents shall be signed within 60 days after receipt of the earliest dated consent, dated and delivered to the Association. Such consents shall be filed with the minutes of the Association and shall have the same force and effect as a vote of Voting Members at a meeting. Within 10 days after receiving authorization for any action by written consent, the Secretary shall give notice to all Voting Members entitled to vote who did not give their consent, fairly summarizing the material features of the authorized action.

**Article III**

**Board of Directors: Number, Powers, Meetings**

A. Composition and Selection.

3.1. Governing Body: Composition.

The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one vote. Except with respect to directors appointed by the Class "B" Member, the directors shall be Members or residents; provided, however, no Owner and resident representing the same Unit may serve on the Board at the same time. A "resident" shall be any natural person 18 years of age or older whose principal residence is a Unit within Comanche Trace Ranch. In the case of a Member which is not a natural person, any officer, director, partner, or trust officer of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member; provided, no Member may have more than one such representative on the Board at a time, except in the case of directors appointed by the Class "B" Member.

3.2. Number of Directors.

The Board shall consist of no less than three, nor more than seven directors, as provided in Section 3.5. The initial Board shall consist of three directors as identified in the Articles of Incorporation.

3.3. Directors Appointed by the Class "B" Member.

The directors appointed by the Class "B" Member pursuant to Section 3.5 shall be appointed by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member.

3.4. Nomination and Election Procedures.

(a) Nominations and Declarations of Candidacy. Prior to each election of directors, the Board shall prescribe the opening date and the closing date of a reasonable filing period in which each and every eligible person who has a bona-fide interest in serving as a director may file as a candidate for any position to be filled by Class "A" votes. The Board shall also establish such other rules and regulations as it deems appropriate to conduct the nomination of directors in a fair, efficient, and cost-effective manner. Nominations also may be permitted from the floor.

Nominations for election to the Board may also be made by a Nominating Committee. The Nominating Committee, if any, shall consist of a Chairman, who shall be a member of the Board, and three or more Members or representatives of Members, with at least one representative from each Voting Group. The members of the Nominating Committee shall be appointed by the Board not less than 30 days prior to each annual meeting to serve a term of one year and until their successors are appointed, and such appointment shall be announced in the notice of each election.

The Nominating Committee may make as many nominations for election to the Board as it shall, in its discretion, determine. The Nominating Committee shall nominate separate slates for the directors, if any, to be elected at large by all Class "A" votes, and for the director(s) to be elected by the votes within each Voting Group. In making its nominations, the Nominating Committee shall use reasonable efforts to nominate candidates representing the diversity which exists within the pool of potential candidates.

Each candidate shall be given a reasonable, uniform opportunity to communicate qualifications to the Members and to solicit votes.

(b) Election Procedures.

Each Voting Member may cast all votes assigned to the Units which such Voting Member represents for each position to be filled from the slate of candidates on which such Voting Member is entitled to vote. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

(c) Application to Class "B" Member-appointed Directors. The provisions of this Section shall not apply to the appointment of directors by the Class "B" Member.

3.5. Election and Term of Office.

Except as otherwise specifically provided, election of directors shall take place at the Association's annual meeting. Notwithstanding any other provision of these By-Laws:

(a) Within 30 days after the time that Class "A" Members other than Builders own 25% of the Units permitted by the Master Plan for the property described in Exhibits "A" and "B" of the Declaration, or whenever the Class "B" Member earlier determines, the President shall call for an election by which Voting Members shall be entitled to elect one of the three directors, who shall be an at-large director. The remaining two directors shall be appointees of the Class "B" Member. The director elected by Voting Members shall not be subject to removal by the Class "B" Member and shall be elected for a term of two years or until the happening of the event described in subsection (b), whichever is shorter. If such director's term expires prior to the happening of the event described in subsection (b), a successor shall be elected for a like term.

(b) Within 30 days after the time that Class "A" Members other than Builders own 50% of the Units permitted by the Master Plan for the property described in Exhibits "A" and "B" of the Declaration, or whenever the Class "B" Member earlier determines, the Board shall be increased to five directors. The President shall call for an election by which Voting Members shall be entitled to elect two of the five directors, who shall serve as at-large directors. The remaining three directors shall be appointees of the Class "B" Member. The directors elected by Voting Members shall not be subject to removal by the Class "B" Member and shall be elected for a term of two years or until the happening of the event described in subsection (c) below, whichever is shorter. If such directors' terms expire prior to the happening of the event described in subsection (c) below, successors shall be elected for a like term.

(c) Within 90 days after termination of the Class "B" Control Period, the President shall call for an election by which Voting Members shall be entitled to elect three of the five directors, who shall serve as at-large directors. The remaining two directors shall be appointees of the Class "B" Member. The directors elected by Voting Members shall not be subject to removal by the Class "B" Member and shall serve until the first annual meeting following the termination of the Class "B" Control Period. If such annual meeting is scheduled to occur within 90 days after termination of the Class "B" Control Period, this subsection shall not apply and directors shall be elected in accordance with subsection (d) below.

(d) Not later than the first annual meeting after the termination of the Class "B" Control Period, the Board shall be increased to seven directors and an election shall be held. Six directors shall be elected by Voting Members, with an equal number of directors elected by Voting Members representing each Voting Group and any remaining directorships filled at large by the vote of all Voting Members. Three directors shall serve a term of two years, and three directors shall serve a term of one year, as such directors determine among themselves.

Until termination of the Class "B" membership, the Class "B" Member shall be entitled to appoint one director. Upon termination of the Class "B" membership, the director elected by the Class "B" Member shall resign and the remaining directors shall be entitled to appoint a director to serve until the next annual meeting, at which time Voting Members shall be entitled to elect a director to fill such position. Such director shall be elected for a term of two years.

Upon the expiration of the term of office of each director elected by Voting Members, Voting Members entitled to elect such director shall be entitled to elect a successor to serve a term of two years. The directors elected by Voting Members shall hold office until their respective successors have been elected.

The following diagram illustrates the manner in which the transition of control of the Board of Directors shall occur but is not intended to be a comprehensive description of such transition. In the event of a conflict between the text of these By-Laws and the following diagram, the text shall prevail.

<b>Composition of Board of Directors</b>					
Initial	Within 30 Days of When 25% of Units** Sold to Homeowners***	Within 30 Days of When 50% of Units ** Sold to Homeowners***	Within 90 Days of Termination of Class "B" Control Period	First Annual Meeting After Termination of Class "B" Control Period	Termination of Class "B" Membership
Class "B"	VM*	VM	VM	VM	VM
Class "B"	Class "B"	VM	VM	VM	VM
Class "B"	Class "B"	Class "B"	VM	VM	VM
		Class "B"	Class "B"	VM	VM
		Class "B"	Class "B"	VM	VM
				VM	VM
				Class "B"	VM
<p>* VM = Class "A" Voting Members</p> <p>** Percentage based upon total number of Units permitted by Master Plan for property described in Exhibits "A" and "B"</p> <p>*** Sales to builders not counted</p>					

### 3.6. Removal of Directors and Vacancies.

Any director elected by Voting Members may be removed, with or without cause, by the vote of Voting Members holding a majority of the votes entitled to be cast for the election of

such director. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by Voting Members entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

Any director elected by Voting Members who has three consecutive unexcused absences from Board meetings, or who is more than 30 days delinquent (or is the representative of a Member who is so delinquent) in the payment of any assessment or other charge due the Association, may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and the Board may appoint a successor to fill the vacancy for the remainder of the term.

In the event of the death, disability, or resignation of a director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time Voting Members entitled to fill such directorship may elect a successor for the remainder of the term.

Any director whom the Board appoints shall be selected from among Members within the Voting Group represented by the director who vacated the position.

This Section shall not apply to directors appointed by the Class "B" Member. The Class "B" Member shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability, or resignation of a director appointed by or elected as a representative of the Class "B" Member.

#### B. Meetings.

##### 3.7. Organizational Meetings.

The first meeting of the Board following each annual meeting of the membership shall be held within 10 days thereafter at such time and place the Board shall fix.

##### 3.8. Regular Meetings.

Regular meetings of the Board may be held at such time and place a majority of the directors shall determine, but at least four such meetings shall be held during each fiscal year with at least one per quarter. Notice of the time and place of a regular meeting shall be communicated to directors not less than four days prior to the meeting; provided, however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting.

##### 3.9. Special Meetings.

Special meetings of the Board shall be held when called by written notice signed by the President or Vice President or by any two directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by: (a) personal delivery; (b) first class mail, postage prepaid;

(c) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (d) facsimile, computer, fiberoptics, or such other communication device. All such notices shall be given at the director's telephone number, fax number, electronic mail number, or sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least seven business days before the time set for the meeting. Notices given by personal delivery, telephone, or other device shall be delivered or transmitted at least 72 hours before the time set for the meeting.

3.10. Waiver of Notice.

The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.11. Telephonic Participation in Meetings.

Members of the Board or any committee designated by the Board may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this subsection shall constitute presence in person at such meeting.

3.12. Quorum of Board.

At all meetings of the Board, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these By-Laws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.13. Compensation.

Directors shall not receive any compensation from the Association for acting as such unless approved by Voting Members representing a majority of the total Class "A" votes in the Association at a regular or special meeting of the Association. Any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other

directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board, excluding the interested director.

3.14. Conduct of Meetings.

The President shall preside over all meetings of the Board, and the Secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings.

3.15. Open Meetings.

Subject to the provisions of Section 3.16, all meetings of the Board shall be open to all Voting Members and, if required by law, all Owners, but attendees other than directors may not participate in any discussion or deliberation unless permission to speak is requested on their behalf by a director. In such case, the President may limit the time any such individual may speak. Notwithstanding the above, the President may adjourn any meeting of the Board and reconvene in executive session, and may exclude persons other than directors, to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc.

3.16. Action Without a Formal Meeting.

Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

3.17. Powers.

The Board of Directors shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Declaration, these By-Laws, the Articles, and as provided by law. The Board may do or cause to be done all acts and things which the Declaration, Articles, these By-Laws, or Texas law does not direct to be done and exercised exclusively by Voting Members or the membership generally.

3.18. Duties.

The duties of the Board shall include, without limitation:

(a) preparing and adopting, in accordance with the Declaration, an annual budget and establishing each Owner's share of the Common Expenses and any Neighborhood Expenses;

(b) levying and collecting assessments from the Owners;

(c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility consistent with the Community-Wide Standard;

(d) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) depositing all funds received on behalf of the Association in a bank depository which it shall approve, and using such funds to operate the Association; provided, any reserve funds may be deposited, in the Board's business judgment, in depositories other than banks;

(f) making and amending use restrictions and rules in accordance with the Declaration;

(g) opening bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Declaration and these By-Laws;

(i) enforcing the provisions of the Governing Documents and bringing any legal proceedings which may be instituted on behalf of or against the Owners concerning the Association; provided, the Association's obligation in this regard shall be conditioned in the manner provided in the Declaration;

(j) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;

(k) paying the cost of all services rendered to the Association;

(l) keeping books with detailed accounts of the receipts and expenditures of the Association;

(m) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of Comanche Trace Ranch;

(n) indemnifying a director, officer or committee member, or former director, officer, or committee member of the Association to the extent such indemnity is authorized by Texas law, the Articles of Incorporation, or the Declaration; and

(o) assisting in the resolution of disputes between Owners and others without litigation, as set forth in the Declaration.

3.19. Right of Class "B" Member To Disapprove Actions.

So long as the Class "B" membership exists, the Class "B" Member shall have a right to disapprove any action, policy, or program of the Association, the Board, and any committee which, in the sole judgment of the Class "B" Member, would tend to impair rights of Declarant or Builders under the Declaration or these By-Laws, or interfere with development or construction of any portion of Comanche Trace Ranch, or diminish the level of services being provided by the Association.

(a) Notice. The Class "B" Member shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board, or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, which notice complies as to the Board meetings with Sections 3.8, 3.9, and 3.10 and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth with reasonable particularity the agenda to be followed at such meeting.

(b) Opportunity To Be Heard. The Class "B" Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

No action, policy, or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met.

The Class "B" Member, through its representatives or agents, shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Class "B" Member, acting through any officer or director, agent, or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, the Board, or the Association. The Class "B" Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

The Board may employ for the Association a professional manager agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The manager may be a corporation or an individual. The Board may delegate such powers as are necessary to perform the manager's assigned duties but shall not delegate policy making authority or those duties set forth in Sections 3.18(a) (with respect to adoption of the budget), 3.18(b), 3.18(f), 3.18(g) and 3.18(i). Declarant or an affiliate of Declarant may be employed as managing agent or manager.

The Board may delegate to one of its members the authority to act on behalf of the Board on all matters relating to the duties of the manager, if any, which might arise between meetings of the Board.

3.21. Accounts and Reports.

The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

- (a) accrual accounting, as defined by generally accepted accounting principles, shall be employed;
- (b) accounting and controls should conform to generally accepted accounting principles;
- (c) cash accounts of the Association shall not be commingled with any other accounts;
- (d) no remuneration shall be accepted by the manager from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association;
- (e) any financial or other interest which the manager may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board;
- (f) commencing at the end of the quarter in which the first Unit is sold and closed, financial reports shall be prepared for the Association at least quarterly containing:
  - (i) an income statement reflecting all income and expense activity for the preceding period on an accrual basis;
  - (ii) a statement reflecting all cash receipts and disbursements for the preceding period;
  - (iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period; and

(v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent (any assessment or installment thereof shall be considered to be delinquent on the 15th day following the due date unless otherwise specified by Board resolution).

(g) an annual report consisting of at least the following shall be made available to all Members within 120 days after the close of the fiscal year: (i) a balance sheet; (ii) an operating (income) statement; and (iii) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited, reviewed, or compiled basis, as the Board determines, by an independent public accountant; provided, upon written request of any holder, guarantor, or insurer of any first Mortgage on a Unit, the Association shall provide an audited financial statement. During the Class "B" Control Period, the annual report shall include certified financial statements.

### 3.22. Borrowing.

The Association shall have the power to borrow money for any legal purpose; provided, the Board shall obtain Voting Member approval in the same manner provided in Section 8.4 of the Declaration for Special Assessments if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 10% of the budgeted gross expenses of the Association for that fiscal year. During the Class "B" Control Period, no Mortgage lien shall be placed on any portion of the Common Area without the affirmative vote or written consent, or any combination thereof, of Voting Members representing at least a majority of the total Class "A" votes in the Association.

### 3.23. Right To Contract.

The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or Neighborhood and other owners or residents associations, within and outside Comanche Trace Ranch. Any common management agreement shall require the consent of an absolute majority of the Board.

### 3.24. Enforcement.

The Association shall have the power, as provided in the Declaration, to impose sanctions for any violation of any duty imposed under the Governing Documents. In the event that any occupant, tenant, employee, guest, or invitee of a Unit violates any of the Governing Documents and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association.

In the event the Board decides, in its discretion, not to take enforcement action, such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or estop the Association from enforcing any other covenant, restriction, or rule.

The Association, by contract or other agreement, may, but shall not be obligated to, enforce applicable city ordinances, if applicable, and may, but shall not be obligated to, permit the City of Kerrville or other local municipalities to enforce ordinances within Comanche Trace Ranch for the benefit of the Association and its Members.

In conducting the business of the Association, the Board, at all times, shall act within the scope of the Governing Documents and in good faith to further the legitimate interests of the Association and its Members. In fulfilling its governance responsibilities, the Board shall limit its actions to those reasonably related to the Association's purposes; those reasonably related to or within the Association's powers, as provided by the Governing Documents and as provided by Texas laws; and those that are reasonable in scope. The Board shall exercise its power in a fair and nondiscriminatory manner and shall adhere to the procedures established in the Governing Documents.

(a) Notice. Prior to imposition of any sanction hereunder or under the Declaration, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation; (ii) the proposed sanction to be imposed; (iii) a period of not less than 10 days within which the alleged violator may present a written request for a hearing to the Board or the Covenants Committee, if one has been appointed pursuant to Article V; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a hearing is requested within 10 days of the notice. If a timely request for a hearing is not made, the sanction stated in the notice shall be imposed; provided that the Board or Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 10-day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) Hearing. If a hearing is requested within the allotted 10-day period, the hearing shall be held before the Covenants Committee or, if none has been appointed, then before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the Person who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(c) Appeal. Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board. To exercise this right, a written notice of appeal must be received by the manager, President, or Secretary of the Association within 10 days after the hearing date.

(d) Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provision of the Governing Documents by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules) or, following compliance with the dispute resolution procedures set forth in the Declaration, if applicable, by suit at law or in equity to enjoin any violation or to recover monetary damages or both, without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred. Any entry onto a Unit for purposes of exercising this power of self-help shall not be deemed a trespass.

#### **Article IV** **Officers**

##### 4.1. Officers.

The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. The President and Secretary shall be elected from among the members of the Board; other officers may, but need not be members of the Board. The Board may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

##### 4.2. Election and Term of Office.

The Board shall elect the officers of the Association at the first meeting of the Board following each annual meeting of Voting Members, to serve until their successors are elected.

##### 4.3. Removal and Vacancies.

The Board may remove any officer whenever in the Board's judgment the best interests of the Association will be served, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

##### 4.4. Powers and Duties.

The officers of the Association each shall have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, manager, or both.

4.5. Resignation.

Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6. Agreements, Contracts, Deeds, Leases, Checks, Etc.

All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two officers or by such other person or persons as may be designated by Board resolution.

4.7. Compensation.

Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.13.

### **Article V**

#### **Committees**

5.1. General.

The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

5.2. Covenants Committee.

In addition to any other committees which the Board may establish pursuant to Section 5.1, the Board may appoint a Covenants Committee consisting of at least three and no more than seven Members. Acting in accordance with the provisions of the Declaration, these By-Laws, and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 3.24.

5.3. Neighborhood Committees.

In addition to any other committees appointed as provided above, each Neighborhood which has no formal organizational structure or association may elect a Neighborhood Committee to determine the nature and extent of services, if any, to be provided to the Neighborhood by the Association in addition to those provided to all Members of the Association in accordance with the Declaration. A Neighborhood Committee may advise the Board on any other issue, but shall not have the authority to bind the Board.

A Neighborhood Committee shall be elected upon the affirmative vote or written consent of at least a majority of the Owners of Units within the Neighborhood. Each

Neighborhood Committee, if elected, shall consist of three to five members, as determined by the vote of at least a majority of the Owners of Units within the Neighborhood. Neighborhood Committee members shall be elected for a term of one year or until their successors are elected. Any director elected to the Board from a Neighborhood shall be an *ex officio* member of the Neighborhood Committee of the Neighborhood from which he was elected. The Voting Member representing such Neighborhood shall be the chairperson of the Neighborhood Committee, shall preside at its meetings, and shall be responsible for transmitting any and all communications to the Board.

In the conduct of its duties and responsibilities, each Neighborhood Committee shall abide by the notice and quorum requirements applicable to the Board under Sections 3.8, 3.9, and 3.10. Meetings of a Neighborhood Committee shall be open to all Owners of Units in the Neighborhood and their representatives. Members of a Neighborhood Committee may act by unanimous written consent in lieu of a meeting.

## Article VI Miscellaneous

### 6.1. Fiscal Year.

The fiscal year of the Association shall be set by Board resolution. In the absence of a resolution, the fiscal year shall be the calendar year.

### 6.2. Parliamentary Rules.

Except as may be modified by Board resolution, *Robert's Rules of Order* (the then current edition) shall govern the conduct of Association proceedings when not in conflict with Texas law or the Governing Documents.

### 6.3. Conflicts.

To the fullest extent permitted by Texas law, the provisions of the Articles of Incorporation, the Declaration, and these By-Laws shall prevail, unless specifically prohibited by Texas law then Texas law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

### 6.4. Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer, or guarantor of a first Mortgage on a Unit, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Unit: the Declaration, By-Laws, and Articles of Incorporation, including any amendments, the rules of the Association, the membership register, books of account, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the office of the Association or at such other place within Comanche Trace Ranch as the Board shall designate.

(b) Rules for Inspection. The Board shall establish rules with respect to:

(i) notice to be given to the custodian of the records;

(ii) hours and days of the week when such an inspection may be made;  
and

(iii) payment of the cost of reproducing documents requested.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant documents at the expense of the Association.

#### 6.5. Notices.

Except as otherwise provided in the Declaration or these By-Laws, all notices, demands, bills, statements, or other communications under the Declaration or these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) if to a Member or Voting Member, at the address which the Member or Voting Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such Member or Voting Member;

(b) if to the Association, the Board, or the manager, at the principal office of the Association or the managing agent or at such other address as shall be designated by notice in writing to the Members pursuant to this Section; or

(c) if to any committee, at the principal address of the Association or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

#### 6.6. Amendment.

(a) By Class "B" Member. Prior to termination of the Class "B" Control Period, the Class "B" Member may unilaterally amend these By-Laws. Thereafter, the Class "B" Member may unilaterally amend these By-Laws at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; or (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Units. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent thereto in writing.

So long as the Class "B" membership exists, the Class "B" Member may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon any right of any Member.

(b) By Members Generally. Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing a majority of the total Class "A" votes in the Association, and the consent of the Class "B" Member, if such exists. In addition, any additional approval requirements set forth in the Declaration shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date of Amendments. Amendments to these By-Laws shall become effective upon Recordation unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its Recordation, or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

No amendment may remove, revoke, or modify any right or privilege of Declarant or the Class "B" Member without the written consent of Declarant, the Class "B" Member, or the assignee of such right or privilege.

517301/Comanche Trace Ranch By-Laws/052300-wls

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Comanche Trace Ranch Community Association, Inc., a Texas corporation;

That the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Secretary

Initial Restrictions and Rules

The following restrictions shall apply to all of Comanche Trace Ranch until such time as they are amended, modified, repealed, or limited pursuant to Article III of the Declaration.

1. General. Comanche Trace Ranch shall be used only for residential, recreational, country club, and related purposes (which may include, without limitation, an information center and/or a sales office for any real estate broker retained by Declarant to assist in the sale of property described in Exhibit "A" or "B," offices for any property manager retained by the Association, or business offices for Declarant or the Association) consistent with this Declaration and any Supplemental Declaration.

2. Restricted Activities. The following activities are prohibited within Comanche Trace Ranch unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors:

(a) Parking any vehicles on public or private streets or thoroughfares, or parking of commercial vehicles or equipment, mobile homes, recreational vehicles, or trailer homes, except that such vehicles may be parked for a maximum of 24 hours per month and for loading and unloading purposes, only. Parking of manufactured housing, or parking of golf carts, boats and other watercraft, trailers, stored vehicles, or inoperable vehicles in places other than enclosed garages. Construction, service and delivery vehicles shall be exempt from this Section 2(a) during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Area;

(b) Raising, breeding, or keeping animals, livestock, or poultry of any kind, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit; however, those pets which are permitted to roam free, or, in the sole discretion of the Board, make excessive noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed by the pet owner upon the Board's request. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed and inoculated as required by law;

(c) Any activity which emits foul or obnoxious odors outside the Unit or creates noise or other conditions which tend to disturb the peace or threaten the safety of the occupants of other Units;

(d) Any activity which violates local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation;

- (e) Pursuit of hobbies or other activities which tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Unit;
- (f) Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Units;
- (g) Outside burning of trash, leaves, debris, or other materials, except during the normal course of constructing a dwelling on a Unit;
- (h) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Units, except alarm devices used exclusively for security purposes;
- (i) Use and discharge of firecrackers and other fireworks;
- (j) Dumping grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within Comanche Trace Ranch, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff, and Declarant and Builders may dump and bury rocks and trees removed from a building site on such building site;
- (k) Accumulation of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers;
- (l) Obstruction or rechanneling drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Declarant and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent;
- (m) Subdivision of a Unit into two or more Units, or changing the boundary lines of any Unit after a subdivision plat including such Unit has been approved and Recorded, except that Declarant shall be permitted to subdivide or replat Units which it owns;
- (n) Swimming, motorized boating, or use of personal flotation devices in lakes, ponds, streams, or other bodies of water within Comanche Trace Ranch, except as expressly permitted by Board rule. For example, fishing from the shore shall be permitted with appropriate licenses and Declarant, its successors and assigns, shall be permitted and shall have the exclusive right and easement to retrieve golf balls from bodies of water within the Common Areas and to draw water from lakes, ponds, and streams within Comanche Trace Ranch for purposes of irrigation and such other purposes as Declarant shall deem desirable. The Association shall not be responsible for any loss,

damage, or injury to any person or property arising out of the authorized or unauthorized use of rivers, lakes, ponds, streams or other bodies of water within or adjacent to Comanche Trace Ranch;

(o) Use of any Unit for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years, except that Declarant and its assigns may operate such a program with respect to Units which it owns;

(p) Unless as otherwise specifically authorized by the Declarant pursuant to Article XVI, discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

(q) On-site storage of gasoline, heating, or other fuels, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. This provision shall not apply to any underground fuel tank authorized pursuant to Article IV;

(r) Any business, trade, garage sale, moving sale, rummage sale, or similar activity, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (ii) the business activity conforms to all zoning requirements for Comanche Trace Ranch; (iii) the business activity does not involve door-to-door solicitation of residents of Comanche Trace Ranch; (iv) the business activity does not, in the Board's reasonable judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in Comanche Trace Ranch which is noticeably greater than that which is typical of Units in which no business activity is being conducted; and (v) the business activity is consistent with the residential character of Comanche Trace Ranch and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of Comanche Trace Ranch, as may be determined in the Board's sole discretion.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

Leasing of a Unit shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by Declarant or a Builder approved by Declarant with respect to its development and sale of Comanche

Trace Ranch or its use of any Units which it owns within Comanche Trace Ranch, including the operation of a timeshare or similar program;

(s) Capturing, trapping, or killing of wildlife within Comanche Trace Ranch, except in connection with the activities taking place through Declarant's wildlife and game management program, as described in Article XVI and in circumstances posing an imminent threat to the safety of persons using Comanche Trace Ranch;

(t) Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within Comanche Trace Ranch or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(u) Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Unit without prior approval pursuant to Article IV;

(v) Operation of motorized vehicles on pathways or trails maintained by the Association, except that golf carts may be operated on cart paths intended for such purposes; and

(w) Any construction, erection, placement, or modification of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article IV of the Declaration. This shall include, without limitation, freestanding flagpoles and the display of flags, except that one standard sized United States flag may be displayed and attached to the dwelling by a pole and brackets. This also shall include, without limitation, signs, basketball hoops, swing sets and similar sports and play equipment; clotheslines; garbage cans; woodpiles; above-ground swimming pools, and hedges, walls, dog runs, animal pens, or fences of any kind; satellite dishes and antennas, except that:

(i) an antenna designed to receive direct broadcast satellite services, including direct-to-home satellite services, that is one meter or less in diameter;

(ii) an antenna designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or

(iii) an antenna that is designed to receive television broadcast signals;

(collectively, "Permitted Antennas") shall be permitted on Units, subject to such reasonable requirements as to location and screening as may be set forth in the Architectural Guidelines, consistent with applicable law, in order to minimize obtrusiveness as viewed from streets and adjacent property. Declarant and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the

benefit of all or a portion of Comanche Trace Ranch, should any master system or systems be utilized by the Association and require such exterior apparatus.

3. Prohibited Conditions. The following shall be prohibited at Comanche Trace Ranch:

(a) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of Comanche Trace Ranch;

(b) Structures, equipment, or other items on the exterior portions of a Unit which have become rusty, dilapidated, or otherwise fallen into disrepair; and

(c) Sprinkler or irrigation systems or wells of any type which draw upon water from lakes, creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within Comanche Trace Ranch, except that Declarant and the Association shall have the right to draw water from such sources.

4. Leasing of Units. "Leasing," for purposes of this paragraph, is defined as regular, exclusive occupancy of a Unit by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. All leases shall be in writing. The Board may require a minimum lease term, which requirements may vary from Neighborhood to Neighborhood. Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Unit Owner within 10 days of execution of the lease. The Owner must make available to the lessee copies of the Declaration, By-Laws, and the Restrictions and Rules.

Provisions herein which restrict the sale, rental or use of the described property because of color or race is invalid and unenforceable under Federal Law.  
THE STATE OF TEXAS  
COUNTY OF KERR  
I hereby certify that this instrument was FILED in the File Number Sequence on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Records of Real Property of Kerr County, Texas on

AUG 30 2000



*Janet Pieper*  
COUNTY CLERK, KERR COUNTY, TEXAS

RECORD *Real Property*  
VOL. 1081 PG. 626  
RECORDING DATE

AUG 30 2000



*Janet Pieper*  
COUNTY CLERK, KERR COUNTY, TEXAS

RECORDER'S NOTE  
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## DRILLING RESTRICTION

VOL. 1092 PAGE 0602

THIS DECLARATION OF DRILLING RESTRICTION (this "Declaration") was entered into on the 25 day of October, 2000, by **COMANCHE TRACE RANCH AND GOLF CLUB, LLLP**. ("Declarant");

## WITNESSETH:

Declarant is the owner of the real properties described in **Exhibit "A"**, attached hereto and made a part hereof for all purposes ("Property") and desires to subject the Property to the restriction hereinafter set forth.

NOW, THEREFORE, Declarant declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the restriction hereinafter set forth:

The drilling of water wells on the Property or any part thereof, except as herein provided and permitted, shall be prohibited and said restrictive covenant shall be enforceable by the City of Kerrville who has the right as third-party beneficiary to enforce the same. Exceptions permitted and provided are those set forth in the Development Agreement by and between Comanche Trace Ranch and Golf Club, LLLP, and the City of Kerrville for Comanche Ranch and Golf Club and include the right of Declarant to rework, redrill, recomplete or replace with another well any well which it has a right to use under, and for, the period specified in the Development Agreement, if it determines in its sole discretion that such well becomes inoperable or unuseable, in whole or in part, and/or is not capable of producing the quantity and/or quality of water anticipated and needed by Declarant. In the event Declarant replaces the well by drilling a new well as permitted hereby upon completion but prior to the commencement of pumping water from the new water well, Declarant shall shut in the well being replaced so that it may no longer be useable and convey one-half property interest in the new well to the City of Kerrville and subject to the same provisions of the Development Agreement to which the old well was subject. For purposes of this Declaration a well which is drilled for the purpose of replacing Water Well No. 1, as defined in the Development Agreement, shall become known as "Water Well No. 1" and shall be owned and operated in accordance with the provisions of the Development Agreement relating to Water Well No. 1 and a well which is drilled for the purpose of replacing Water Well No. 2, as defined in the Development Agreement shall become known as "Water Well No. 2" and shall be owned and operated in accordance with the provisions of the Development Agreement relating to Water Well No. 2.

The restriction of this Declaration shall run with and bind the land subject to this Declaration and may be abolished, amended and/or changed in whole or in part, only with the consent of the City of Kerrville and Declarant.

Enforcement of this covenant and restriction shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate them, including without limitation restraint and/or injunctive relief for violations and/or recovery of damages for violations; and failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

COMANCHE TRACE RANCH AND GOLF CLUB, LLLP  
a Colorado limited liability limited  
partnership

BY: COMANCHE TRACE, LLC, a Colorado limited  
liability company, General Partner

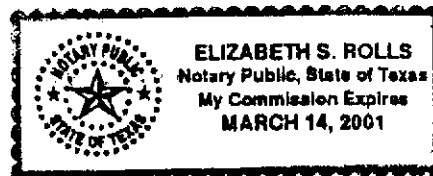
By: Thomas N. Morrill  
Thomas N. Morrill, Manager

THE STATE OF TEXAS §

COUNTY OF KERR §

This instrument was acknowledged before me this 25<sup>th</sup> day of OCTOBER, 2000, by THOMAS N. MORRILL, Manager of COMANCHE TRACE, LLC, a Colorado limited liability company, General Partner of COMANCHE TRACE RANCH AND GOLF CLUB, LLLP, a Colorado limited liability limited partnership, on behalf of said partnership in the capacity therein stated.

Elizabeth S. Rolls  
Notary Public, State of Texas



RETURN TO:  
KERRVILLE TITLE COMPANY  
290 THOMPSON DR.  
KERRVILLE, TX 78028

FILED FOR RECORD  
at...4:20... o'clock .....P.....

NOV - 2 2000

JANNETT PIEPER  
Clerk County Court, Kerr County, Texas  
Cheryl Thompson Deputy

Filed By  
Kerrville Title Company

RECORDER'S NOTE  
AT TIME OF RECORDATION INSTRUMENT FOUND  
TO BE INADEQUATE FOR BEST PHOTOGRAPHIC  
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FIELD NOTES DESCRIPTION FOR 1131.78 ACRES OF LAND OUT OF  
THE CRYSTAL LAND COMPANY LAND BETWEEN STATE HIGHWAY  
NO. 173 AND FM HIGHWAY NO. 2771 IN KERR COUNTY, TEXAS

Being all of a certain tract or parcel of land containing 1131.78 acres, more or less, out of Original Patent Surveys in Kerr County, Texas as follows:

Survey No.	Survey	Abstract No.	Acres
63	William T. Crook	116	60.84
64	William Watt	363	127.94
65	William Watt	364	475.70
66	William Watt	365	447.83
394	Thomas Jackson	212	19.47

comprising all of a certain 1024.49 acre tract conveyed from the Farm Credit Bank of Texas to Crystal Land Company, L. L. C. by a Special Warranty Deed with Vendor's Lien executed the 10th day of October, 1996 and recorded in Volume 871 at Page 629 of the Real Property Records of Kerr County, Texas and part of a certain 290.90 acre tract conveyed from Clint Hendricks to Crystal Land Co. L. L. C. by a Special Warranty Deed with Vendor's Lien executed the 12th day of March, 1996 and recorded in Volume 841 at Page 58 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron stake found at a fence intersection in the southeast line of a 700 acre tract conveyed from Bascom Giles to the Heirs of Mrs. Allivoxes Clark by a Deed of Acquittance executed the 10th day of November, 1954 and recorded in Volume 1 at Page 448 of the Patent Records of Kerr County, Texas for a westerly corner of the herein described tract and 1024.49 acre tract, the west corner of said Survey No. 65 and the north corner of a certain 796.90 acre tract conveyed as FIRST TRACT from Julius Neunhoffer, et ux, to Oscar Neunhoffer, Jr. by a Warranty Deed executed the 4th day of December, 1967 and recorded in Volume 131 at Page 307 of the Deed Records of Kerr County, Texas, which point bears 328.7 ft N.36°25'E. from a 60 "d" nail set in a Live Oak tree stump and 317.2 ft N.13°15'E. from a 60 "d" nail set in the root remains of a Live Oak tree;

THENCE, along a fence with the common line between said 1024.49 and 700 acre tracts N.44°54'43"E., 1590.88 ft. to a fence cornerpost marked with a set 1/2" iron stake which bears 4.7 ft N.84°06'W. from a 24" diameter Live Oak tree for a reentrant corner of the herein described tract and 1024.49 acre tract, an easterly corner of 700 acre tract; N.44°35'03"W., 1274.51 ft. to a 1/2" iron stake found at a fence cornerpost for a westerly corner of the herein described tract and 1024.49 acre tract, a reentrant corner of 700 acre tract; and N.44°21'45"E., 1672.86 ft. to a fence cornerpost marked with a set 1/2" iron stake for a reentrant corner of the herein described tract and 1024.49 acre tract and an easterly corner of 700 acre tract;

THENCE, along a fence continuing with the said common line between 1024.49 and 700 acre tracts N.44°14'58"W., 1496.16 ft. to a 1/2" iron stake found at a fence cornerpost for a westerly corner of the herein described tract and 1024.49 acre tract, a reentrant corner of 700 acre tract;

THENCE, continuing with the said common line between 1024.49 and 700 acre tracts N.44°49'34"E., near a fence, 1751.06 ft. to a 1/2" iron stake found in a rock mound (which bears 5.48 ft S.41°22'E. from a 1/2" iron stake found in said fence) for the south corner of a certain 38.86 acre tract patented to Norma P. Schweitzer by a Patent executed the 22nd day of November, 1965 and recorded in Volume 1 at Page 448 of the Patent Records of Kerr County, Texas, an easterly corner of 700 acre tract;

THENCE, with the common line between said 1024.49 and 38.86 acre tracts N.44°43'04"E., near a fence 869.76 ft. to an "eye" hook found in a rock mound (which bears 4.8 ft S.45°E. from said fence) for the east corner of 38.86 acre tract, the south corner of a certain 285.38 acre tract conveyed from Otto Pankratz, Jr. to Chas. L. Schweitzer, Jr., et ux by a Warranty Deed executed the 7th day of June, 1939 and recorded in Volume 64 at Page 412 of the Deed Records of Kerr County, Texas;

THENCE, continuing with the common line between said 1024.49 and 285.38 acre tracts N.44°47'12"E., near a fence 758.60 ft. to a 1/2" iron stake found near a fence for a northerly corner of the herein described tract and 1024.49 acre tract;

THENCE, along or near a fence with the north line of said 1024.49 acre tract, upon, over and across a certain 1280.65 acre tract conveyed from J. E. Johnson to Carl Meck, et ux, by a Warranty Deed with Vendor's Lien executed the 4th day of

January, 1962 and recorded in Volume 111 at Page 402 of the Deed Records of Kerr County, Texas: S.45°07'59"E., 644.65 ft. to a 1/4" iron stake found at a fence anglepost; and S.80°31'59"E., 1075.67 ft. to a 1/2" iron stake found at a fence cornerpost for a reentrant corner of the herein described tract and 1024.49 acre tract;

THENCE, along a fence with the north line of said 1024.49 acre tract, continuing upon, over and across said 1280.65 acre tract: N.45°16'46"E., 305.53 ft. to a 1/2" iron stake found at a fence anglepost; and N.43°38'50"E., 2642.98 ft. to a 1/2" iron stake found at a fence cornerpost for a reentrant corner of 1280.65 acre tract, the south corner of a certain 85 acre tract conveyed from Lee Mosty, et ux, to Harvey Mosty by a Warranty Deed executed the 15th day of April, 1932 and recorded in Volume 54 at Page 544 of the Deed Records of Kerr County, Texas;

THENCE, along a fence with the common line between said 1024.49 and 85 acre tracts N.44°38'57"E., at 2179.87 ft. passing a 1/4" iron stake found at a fence cornerpost in the southwest right-of-way line of F. M. Highway No. 689 (State Highway No. 173) and southwest line of a certain 4.518 acre tract conveyed as Parcel 17, Part 2 from Carl D. Mock, et ux, to the State of Texas by a Right-of-Way Easement executed the 1st day of February, 1962 and recorded in Volume 3 at Page 299 of the Easement Records of Kerr County, Texas, then continuing not along a fence with the northwest line of Parcel 17, Part 2 for a total distance of 2219.77 ft. to a 1/2" iron stake set for the north corner of the herein described tract, 1024.49 acre tract and Parcel 17, Part 2;

THENCE, with the northeast line of said 1024.49 acre tract and Parcel 17, Part 2: S.51°49'20"E., 138.89 ft. to a set P-K nail; S.48°21'20"E., 138.89 ft. to a set P-K nail; S.44°06'20"E., 138.89 ft. to a set P-K nail; S.39°25'20"E., 200.00 ft. to a set P-K nail; and S.32°55'08"E., 755.74 ft. to a concrete right-of-way marker found for a reentrant corner of the herein described tract and 1024.49 acre tract;

THENCE, continuing with the northeast line of said 1024.49 acre tract, N.61°04'27"E., at 0.9 ft. passing a chain link fence cornerpost, then continuing near a chain link fence at approximately 88.6 ft. passing the south corner of a certain 0.88 acre tract conveyed from Marvin D. Haass to William E. Bowden, et ux, by a Warranty Deed with Vendor's Lien executed the 2nd day of July, 1974 and recorded in Volume 173 at Page 644 of the Deed Records of Kerr County, Texas, then continuing with the common line between 1024.49 and 0.88 acre tracts at 359.5 ft. passing 3.7 ft. N.29°W. of a chain link fence cornerpost, at 360.46 ft. passing a found 1/2" iron reference stake on the west bank of Flatrock Lake (on the Guadalupe River), then continuing for a total distance of 418.56 ft. to an unmarked point in the lake on the original west bank of the Guadalupe River (prior to impoundment) for a northerly corner of the herein described tract and 1024.49 acre tract, the east corner of 0.88 acre tract;

THENCE, with the east line of said 1024.49 acre tract along the original west bank of the Guadalupe River: S.20°45'00"E., 60.60 ft. to an unmarked point which bears 100.00 ft. N.72°07'30"E. from a set 1/2" iron reference stake; S.15°00'00"E., 61.90 ft. to an unmarked point which bears 100.00 ft. N.77°37'30"E. from a set 1/2" iron reference stake; S.09°45'00"E., 127.20 ft. to an unmarked point which bears 100.00 ft. N.81°15'00"E. from a set 1/2" iron reference stake; S.07°45'00"E., 129.00 ft. to an unmarked point which bears 100.00 ft. N.83°15'00"E. from a set 1/2" iron reference stake; S.05°45'00"E., 242.00 ft. to an unmarked point which bears 100.00 ft. N.85°57'55"E. from a set 1/2" iron reference stake; and S.02°19'10"E., 171.22 ft. to a 1/4" iron rod found on the said west bank of the Guadalupe River in the northwest line of a certain 24.00 acre tract conveyed from Andrew Anderson to Foss Robert McCracken, et al, by a Deed executed the 3rd day of September, 1993 and recorded in Volume 711 at Page 209 of the Real Property Records of Kerr County, Texas for the east corner of the herein described tract and 1024.49 acre tract;

THENCE, with the common line between said 1024.49 and 24.00 acre tracts S.45°16'53"W., 362.02 ft. to a concrete right-of-way marker found in the east right-of-way line of the "old" FM Highway No. 689 for an easterly corner of the herein described tract and 1024.49 acre tract, the northwest corner of 24.00 acre tract;

THENCE, continuing with the southeast line of said 1024.49 acre tract: N.01°04'51"E. along the said east right-of-way line of the "old" FM Highway No. 689, 73.52 ft. to a concrete right-of-way marker found for a reentrant corner of the herein described tract and 1024.49 acre tract; N.45°33'21"W. across the "old" FM Highway No. 689, 112.35 ft. to a concrete right-of-way marker found in the east right-of-way line of the "new" FM Highway No. 689 (State Highway No. 173) for a reentrant corner of the herein described tract and 1024.49 acre tract; and S.00°34'46"W. with the said east right-of-way line of the "new" FM Highway No. 689 (State Highway No. 173), 234.99 ft. to a concrete right-of-way marker found in the northwest line of a certain 356.20 acre tract conveyed from Rancho River Ridge, Ltd. to Louis M. Howard, et ux, by a

Page 3 - 1131.76 acres of the Crystal Land Co., L. L. C. land

Special Warranty Deed executed the 12th day of August, 1994 and recorded in Volume 760 at Page 129 of the Real Property Records of Kerr County, Texas;

THENCE, with the common line between said 1024.49 and 356.20 acre tracts S.44°35'37"W., 205.13 ft. to a 1/4" iron stake set near a fencepost in the west right-of-way line of the "new" FM Highway No. 689 (State Highway No. 173);

THENCE, along a fence continuing with the said common line between 1024.49 and 356.20 acre tracts S.44°27'45"W 5471.92 ft. to a 1/4" iron stake found at a fence cornerpost for a reentrant corner of the herein described tract and 1024.49 acre tract, the west corner of 356.20 acre tract;

THENCE, along a fence continuing with the said common line between 1024.49 and 356.20 acre tracts; S.46°27'39"E 579.31 ft. to a fence anglepost marked with a set 1/4" iron stake; and S.23°23'27"E., 1526.97 ft. to a fence cornerpost marked with a set 1/4" iron stake for an easterly corner of the herein described tract and 1024.49, the north corner of a certain 10.00 acre tract conveyed from Harry Karger, et ux, to H. H. Hamrick, et ux, by a Deed executed the 23rd day of October, 1941 and recorded in Volume 80 at Page 627 of the Deed Records of Kerr County, Texas;

THENCE, along a fence with the common line between said 1024.49 and 101 acre tracts S.44°28'18"W., 1764.79 ft. to a fence cornerpost marked with a found 1/4" iron stake for a reentrant corner of Tract 1, the west corner of 101 acre tract, the north corner of a certain 8.00 acre tract conveyed from the Farm Credit Bank of Texas to Crystal Land Company, L. L. C. by a Special Warranty Deed with Vendor's Lien executed the 21st day of June, 1996 and recorded in Volume 855 at Page 680 of the Real Property Records of Kerr County, Texas and the north corner of The Homestead at Turtle Creek, a subdivision of Kerr County according to the plat of record in Volume 6 at Page 309 of the Plat Records of Kerr County, Texas;

THENCE, along a fence with the common line between said 1024.49 acre tract and The Homestead at Turtle Creek all calls to fence angleposts with found 1/4" iron stakes: S.44°31'28"W., at 834.85 ft. passing a 1/4" iron stake found for the west corner of 8.00 acre tract, the northwest corner of a certain 290.90 acre tract conveyed from Clint Hendricks to Crystal Land Company, L. L. C. by a Special Warranty Deed with Vendor's Lien executed the 12th day of March, 1996 and recorded in Volume 841 at Page 53 of the Real Property Records of Kerr County, Texas, then continuing for a total distance of 1419.28 ft.; S.33°03'39"W., 437.73 ft.; and S.15°35'16"W., 255.03 ft. to a 1/4" iron stake found for a reentrant corner of the herein described tract, the southwest corner of the Homestead at Turtle Creek;

THENCE, upon, over and across said 1024.49 acre tract: S.16°44'56"W., 377.84 ft. to a set 1/4" iron stake; and S.14°27'18"W., 722.54 ft. to a 1/4" iron stake set for a reentrant corner of the herein described tract;

THENCE, continuing upon, over and across said 1024.49 acre tract S.71°47'33"E., at 40.09 ft. passing a fence, the common line between 1024.49 and 290.90 acre tracts, then continuing upon, over and across said 290.90 acre tract for a total distance of 2496.44 ft. to a 1/4" iron stake set in a fence, the east line of said 290.90 acre tract and west line of The Woods, a subdivision of Kerr County according to the plat of record in Volume 4 at Page 137 of the Plat Records of Kerr County, Texas for an easterly corner of the herein described tract;

THENCE, along said fence with the common line between 290.90 acre tract and The Woods: S.18°12'27"W., 466.77 ft. to a 1/4" iron stake found for the southwest corner of The Woods, the northerly northwest corner of The Woods Section Two, a subdivision of Kerr County according to the plat of record in Volume 4 at Page 176 of the Plat Records of Kerr County, Texas;

THENCE, continuing along said fence with the common line between 290.90 acre tract and The Woods Section Two: S.18°12'27"W., 1511.71 ft. to a fence anglepost for the southeast corner of the herein described tract and 290.90 acre tract, a reentrant corner of The Woods Section Two; and S.82°36'26"W., 1521.62 ft. to a fence cornerpost in the northeast right-of-way line of F. M. Highway No. 2771 for the southwest corner of the herein described tract and 290.90 acre tract, the westerly northwest corner of The Woods Section Two;

THENCE, along or near a fence with the west line of said 290.90 acre tract and the northeast right-of-way line of F. M. Highway No. 2771: N.16°59'13"E., 423.22 ft. to a concrete right-of-way marker found at the beginning of 06°00' curve to the left; and 1508.92 ft. along the arc of said curve to the left subtended by a 90°31'24" central angle and 955.06 ft. radius (long chord: N.28°17'26"W., 1356.81 ft.) to a 1/4" iron stake found near a fence cornerpost in the north line of a certain

08/15/00 10:39 FAX 1 830 257 8119

WALLACE, JACKSON, MACHANN

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Page 4 - 1131.76 acres of the Crystal Land Co., L. L. C. land

6.404 acre tract conveyed from Herbert J. Jones, et ux, to the State of Texas by a Deed executed the 30th day of July, 1963 and recorded in Volume 115 at Page 611 of the Deed Records of Kerr County, Texas for the south common corner of said 290.90 acre tract;

THENCE, along or near a fence with the said south line of said 1024.49 acre tract and north right-of-way line of F. M. Highway No. 2771 and north line of said 6.404 acre tract 79.51 ft. along the arc of a  $05^{\circ}59'59''$  curve to the left subtended by a  $04^{\circ}46'11''$  central angle and 955.06 ft. radius (long chord: N.  $75^{\circ}56'14''$  W., 79.48 ft.) to a  $\frac{1}{2}$ " iron stake found for a recurrent corner of the herein described tract and 1024.49 acre tract, the northwest corner of 6.404 acre tract and the northeast corner of a certain 1.747 acre tract conveyed from Carl D. Mock, et ux, to the State of Texas by a Right-of-Way Easement executed the 30th day of July, 1963 and recorded in Volume 3 at Page 409 of the Easement Records of Kerr County, Texas;

THENCE, upon, over and across said FM Highway No. 2771 with the south line of 1024.49 acre tract and the common line between said 6.404 and 1.747 acre tracts S.  $11^{\circ}34'05''$  W., 100.00 ft. to a  $\frac{1}{2}$ " iron stake found in the south right-of-way line of FM Highway No. 2771 for the southeast corner of the herein described tract, the south common corner of 6.404 and 1.747 acre tracts and the northeast corner of a certain 1072.60 acre tract conveyed from Dorothy Dean Tate, et vir, to William C. Childs by a Warranty Deed executed the 18th day of September, 1992 and recorded in Volume 656 at Page 793 of the Real Property Records of Kerr County, Texas;

THENCE, along the south line of said 1024.49 acre tract with the said south right-of-way line of FM Highway No. 2771, the common line between 1.747 and 1072.60 acre tracts: 523.29 ft. along the arc of a  $06^{\circ}42'04''$  curve to the left subtended by a  $35^{\circ}03'53''$  central angle and 855.05 ft. radius (long chord: S.  $84^{\circ}09'31''$  W., 515.16 ft.) to a concrete right-of-way marker found at its end; and S.  $66^{\circ}36'40''$  W., 205.11 ft. to a  $\frac{1}{2}$ " iron stake found for the southwest corner of the herein described tract, 1024.49 acre tract and 1.747 acre tract;

THENCE, upon, over and across said FM Highway No. 2771 with the west line of said 1024.49 and 1.7474 acre tracts N.  $34^{\circ}36'52''$  W., at approximately 51 ft. passing the southeast corner of said FIRST TRACT, then continuing with the common line between 1024.49 acre tract and FIRST TRACT for a total distance of 102.08 ft. to a  $\frac{1}{2}$ " iron stake set near a fence cornerpost in the north right-of-way line of FM Highway No. 2771 for the northwest corner of 1.747 acre tract;

THENCE, along a fence with the common line between said 1024.49 acre tract and FIRST TRACT: N.  $34^{\circ}36'52''$  W., at 1097.84 ft. passing a 1" iron pipe found in the common line between said Survey Nos. 64 and 394, then continuing for a total distance of 1489.40 ft. to a  $\frac{1}{2}$ " iron stake found at a fence anglepost; N.  $30^{\circ}03'47''$  W., 274.56 ft. to a  $\frac{1}{2}$ " iron stake found at a fence cornerpost; N.  $41^{\circ}20'34''$  E., 234.42 ft. to a  $\frac{1}{2}$ " iron stake found at a fence anglepost; N.  $13^{\circ}04'29''$  W., 143.95 ft. to a  $\frac{1}{2}$ " iron stake found at a fence anglepost; N.  $29^{\circ}21'34''$  W., 1438.86 ft. to a  $\frac{1}{2}$ " iron stake found at a fence anglepost; and N.  $45^{\circ}23'10''$  W., 506.39 ft. to the PLACE OF BEGINNING.

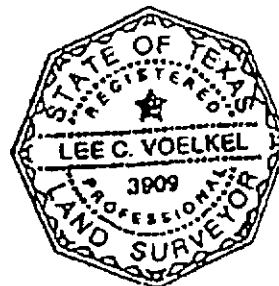
I hereby certify that these field notes and accompanying plat are accurate descriptions of the property contained therein as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all property corners are as stated. (Bearing basis = True north based on GPS observations)

Dates Surveyed: 02/20/96  
09/20/96  
10/15/97  
05/05/98

Dated this 6th day of May, 1998

*Lee C. Voelkel*

Lee C. Voelkel  
Registered Professional Land Surveyor No. 3909  
County Surveyor for Kerr County



## SAVE AND EXCEPT:

Being all of a certain tract or parcel of land containing 2.00 acres of land, more or less, out of William Wan Survey No. 66, Abstract No. 365 in Kerr County, Texas; part of 1131.78 acres conveyed from Crystal Land Company, LLC, to Comanche Trace Ranch and Golf Club, LLLP by a Special Warranty Deed executed the 17<sup>th</sup> day of September, 1998 and recorded in Volume 971 at Page 698 of the Plat Records of Kerr County, Texas;

BEGINNING at a ½" iron stake found at a fence corner, in the southwest right-of-way line of F. M. Highway No. 689 (State Highway No. 173) and southwest line of a certain 4.518 acre tract conveyed as Parcel 17, Part 2 from Carl D. Meek, et ux, to the State of Texas by a Right-of-way Easement executed the 1<sup>st</sup> day of February, 1962 and recorded in Volume 3 at Page 299 of the Easement Records of Kerr County, Texas, the north corner of the herein described tract and the beginning of a 2°29' curve to the right; which point bears 10919.73 ft., N.37°52'04"E. from a fence corner post marked with a found ½" iron stake at the occupied south corner of said Survey No. 66;

THENCE, upon, over and across said 1131.78 acre tract, along or near a fence, with the south right-of-way line of said F. M. Highway No. 689 (State Highway No. 173) and said 4.518 acres 303.24 ft. along the arc of said curve to the right subtended by a 07°31'05" central angle and 2311.04 ft. radius (long chord = S.48°07'24"E., 303.02 ft.) to a ½" iron stake set at its end; the east corner of the herein described tract;

THENCE, not along a fence, upon, over and across said 1131.78 acres: S.44°32'40"W., 290.37 ft. to a set ½" iron stake the south corner of the herein described tract; N.45°48'37"W., 303.21 ft. to a ½" iron stake set in a fence, the west corner of the herein described tract, in the southeast line of 85 acres conveyed from Lee Mosty, et ux to Harvey Mosty by a Warranty Deed executed the 15<sup>th</sup> day of April, 1952 and recorded in Volume 54 at Page 544 of the Deed Records of Kerr County, Texas;

THENCE, along or near a fence, with the common line between said 1131.78 acres and said 85 acres N.44°36'57"E., 278.15 ft. to the PLACE OF BEGINNING.

## METES AND BOUNDS DESCRIPTION

FURTHER SAVE AND EXCEPT:

1.73 ACRE

Being a 1.73 acre tract situated in Kerr County, Texas; being all out of and a part of that certain 1024.49 acre tract conveyed from the Farm Credit Bank of Texas to Crystal Land Co. L.L.C. by a Special Warranty Deed With Vendor's Lien executed October 10, 1996, recorded in Volume 871, Page 629 of the Real Property Records of Kerr County, Texas; being comprised of 1.41 acre southwest of the present southwest right of way line of Texas State Highway No. 173 and 0.32 acre lying within the Right of Way Easement of record in Volume 3, Page 299 of the Easement Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2" rebar rod found at the base of a fence corner post in the southwest right of line of F.M. Hwy. No. 689 (State Hwy. No. 173) and the southwest line of a certain 4.518 acre tract conveyed as Parcel 17, Part 2 from Carl D. Meek, et ux, to the State of Texas by a Right of Way easement executed the 1<sup>st</sup> day of February, 1962, recorded in Volume 3, Page 299 of the Easement Records of Kerr County, Texas;

THENCE, N.44deg.38'57"E., 39.90 feet to the north corner of said Parcel 17, Part 2 and most northerly corner of said 1024.49 acre tract;

THENCE, with a northeast boundary of said 1024.49 acre tract and said Parcel 17, Part 2:

S.51deg.49'20"E., 138.89 ft.

S.48deg.21'20"E., 139.89 ft.

S.44deg.06'20"E., 138.89 ft. and

S.39deg.25'02"E., 54.41 feet to the POINT OF BEGINNING of the herein described tract;

THENCE, continuing with the northeast boundary of said 1024.49 acre tract and Parcel 17, Part 2; S.39deg.25'20"E., 145.58 feet and S.32deg.55'08"E., 154.93 feet to the east corner of the herein described tract;

THENCE, through the interior of said 1024.79 acre tract and said Parcel 17, Part 2; S.53deg.10'46"W., passing at 43.22 feet, the southwest right of way line of F.M. Highway No. 689 (State Hwy. No. 173) and southwest line of Parcel 17, Part 2; continuing through said 1024.49 acre tract another 201.13 feet for a total distance of 244.35 feet to the south corner of the herein described tract.

THENCE, N.36deg.49'14"W., 300.00 feet to the west corner of the herein described tract;

THENCE, N.53deg.10'46"E., passing at 201.13 feet, the southwest right of way line of F.M. Highway No. 689 (State Hwy. No. 173) and southwest line of Parcel 17, Part 2; continuing through said Parcel 17, Part 2, another 47.15 feet for a total distance of 248.28 feet to the POINT OF BEGINNING, containing 1.73 acre, more or less, within these metes and bounds.

EXHIBIT "A"

VOL. 1092 PAGE 0610

TRACT I - 1,131.7 acres, more or less, described in the attached description  
SAVE AND EXCEPT a 2 acre tract described in the attached description  
SAVE AND EXCEPT a 1.73 acre tract described in the attached description

Provisions herein which restrict the sale, rental or use of the described property because of color or race is invalid and unenforceable under Federal Law, THE STATE OF TEXAS }  
COUNTY OF KERR

I hereby certify that this instrument was FILED in the File Number Sequence on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Records of Real Property of Kerr County, Texas on

NOV 03 2000



*Janett Pieper*

COUNTY CLERK, KERR COUNTY, TEXAS

RECORD *Real Property*  
VOL. *1092* PG. *602*  
RECORDING DATE

NOV 03 2000



*Janett Pieper*

COUNTY CLERK, KERR COUNTY, TEXAS

**09635**

**VOL. 1159 PAGE 0001**

STATE OF TEXAS

COUNTY OF KERR

Reference:

Declaration of Covenants, Conditions, and Restrictions

Volume 1081, Page 0626

**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS FOR COMANCHE TRACE RANCH**

**CLUB VIEW COURT**

**(COMANCHE TRACE PHASE 2, SECTION 3)**

THIS SUPPLEMENTAL DECLARATION is made this 15<sup>TH</sup> day of November, 2001 by Comanche Trace Ranch and Golf Club, L.L.P., a Colorado limited liability limited partnership qualified to do business in Texas ("Declarant").

WHEREAS, Declarant caused to be recorded that certain Declaration of Covenants, Conditions, and Restrictions for Comanche Trace Ranch on September 29, 2000, recorded at Volume 1081, Page 0626 in the office of the County Clerk of Kerr County, Texas, as it may be amended and supplemented in the aforesaid records from time to time ("Declaration"); and

WHEREAS, pursuant to Section 9.1 of the Declaration, until 25 years after the date of recording of the Declaration or until all property described on Exhibit "B" of the Declaration has been subjected to the Declaration, whichever is earlier, Declarant may unilaterally subject to the provisions of the Declaration all or any portion of the Land Subject to Annexation described on Exhibit "B" of the Declaration by recording a Supplemental Declaration describing the additional property; and

WHEREAS, the property described on Exhibit "A" to this Supplemental Declaration is part of the property included on Exhibit "B" of the Declaration which may be annexed by the Declarant to the Declaration; and

WHEREAS, this Supplemental Declaration is recorded within 25 years of the recording of the Declaration; and

WHEREAS, the Declarant desires to submit the property described on Exhibit "A" hereto to the Declaration and designate it as a separate Neighborhood.

NOW, THEREFORE, pursuant to the powers retained by Declarant under the Declaration, Declarant hereby submits the property described on Exhibit "A" hereto to the Declaration. Such property shall be sold, transferred, used, conveyed, occupied, and mortgaged

9-5-1

or otherwise encumbered pursuant to the provisions of the Declaration, which shall run with the title to such property and shall be binding upon all persons having any right, title, or any interest in such property, their respective heirs, legal representatives, successors, successors-in-title, and assigns.

**Article I**  
**Definitions**

The definitions provided in the Declaration are incorporated by reference.

**Article II**  
**Neighborhood Designation**

The Property described on Exhibit "A" attached hereto, is hereby designated as a separate Neighborhood, known as CLUB VIEW COURT.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed by its duly authorized representative this 15<sup>th</sup> day of November, 2001.

DECLARANT: COMANCHE TRACE RANCH AND  
GOLF CLUB, L.L.L.P., a Colorado  
Limited liability limited partnership

BY: COMANCHE TRACE, L.L.C., a Colorado  
limited liability company, General Partner

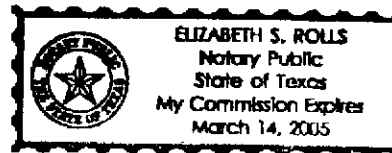
By: Thomas N. Morrill  
Thomas N. Morrill, Manager

STATE OF TEXAS }  
COUNTY OF KERR }

The foregoing instrument was acknowledged before me on this the 30<sup>th</sup> day of November, 2001, by THOMAS N. MORRILL (personally known to me or produced as identification), Thomas N. Morrill, Manager of COMANCHE TRACE, L.L.C., a Colorado limited liability company, on behalf of the company in its capacity as general partner of COMANCHE TRACE RANCH AND GOLF CLUB, L.L.L.P., a Colorado limited liability limited partnership.

Elizabeth S. Rolls  
Notary Public for State of TEXAS  
Notary's Name Printed: ELIZABETH S. ROLLS  
My Commission Expires: 3/14/05

5371.01/CADocs



Filed by  
Return to: KERRVILLE TITLE COMPANY  
290 Thompson Drive  
Kerrville, Texas 78028

EXHIBIT "A"

**Property Submitted to the Declaration of Covenants,  
Conditions, and Restrictions for Comanche Trace Ranch**

ALL THAT CERTAIN TRACT OR PARCEL OF LAND lying and being in Kerr County, Texas, and being more particularly shown and delineated on a plat entitled, "Comanche Trace Phase 2, Section 3" (Lots 18 through 31 Block B) prepared by Grogan Surveying, certified by and bearing the seal of Mike Grogan, Texas Registered Land Surveyor No. 5296, dated September 12, 2001. Said plat was recorded on October 11, 2001 in Volume 7, Page 140, in the office of the County Clerk of Kerr County, Texas.

Such plat has the metes and bounds set forth therein.

Provisions herein which restrict the sale, rental or use of the described property because of color or race is invalid and unenforceable under Federal Law, THE STATE OF TEXAS }  
COUNTY OF KERR  
I hereby certify that this instrument was FILED in the File Number Sequence on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Records of Real Property of Kerr County, Texas on

DEC 05 2001



*Jannett Pieper*  
COUNTY CLERK, KERR COUNTY, TEXAS

RECORD *Real Property*  
VOL. 1159 PG 4  
RECORDING DATE

DEC 05 2001



*Jannett Pieper*  
COUNTY CLERK, KERR COUNTY, TEXAS

FILED FOR RECORD  
at 1:55 o'clock P M

DEC 04 2001

JANNETT PIEPER  
Clerk County Court, Kerr County, Texas  
Deputy  
*[Signature]*

STATE OF TEXAS

COUNTY OF KERR

01808

Reference:

Declaration of Covenants, Conditions, and Restrictions

Volume 1081, Page 0626

**AMENDMENT TO THE  
DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS FOR COMANCHE TRACE RANCH**

THIS AMENDMENT TO THE DECLARATION is made this \_\_\_\_ day of \_\_\_\_\_, 2002 by Comanche Trace Ranch and Golf Club, L.L.P., a Colorado limited liability limited partnership qualified to do business in Texas ("Declarant").

WHEREAS, Declarant caused to be recorded that certain Declaration of Covenants, Conditions, and Restrictions for Comanche Trace Ranch on September 29, 2000, recorded at Volume 1081, Page 0626 in the office of the County Clerk of Kerr County, Texas, as it may be amended and supplemented in the aforesaid records from time to time ("Declaration"); and

WHEREAS, Section 20.1 of the Declaration provides that until termination of the Class "B" Control Period, Declarant may unilaterally amend the Declaration for any purpose; and

WHEREAS, the Class "B" Control Period has not terminated; and

WHEREAS, Declarant desires to amend the Declaration for the purpose of stating that no transfer fee shall be levied upon the transfer of title to a Unit by a Builder for a period of two years starting from the date this Amendment is recorded.

NOW, THEREFORE, pursuant to the powers retained by Declarant under the Declaration, the Declaration is hereby amended by adding subparagraph (vi) to Section 8.11(d), so that Section 8.11(d) shall now read as follows:

(d) Exempt Transfers. Notwithstanding the above, no transfer fee shall be levied upon transfer of title to a Unit:

- (i) by or to Declarant;
- (ii) by a co-owner to any Person who was a co-owner immediately prior to such transfer;
- (iii) to the Owner's estate, surviving spouse or child upon the death of the Owner;

(iv) to an entity wholly owned by the grantor; provided, upon any subsequent transfer of an ownership interest in such entity, the transfer fee shall become due;

(v) to an institutional lender pursuant to a mortgage or upon foreclosure of a Mortgage; or

(vi) by any Builder for a period of two years from the date this Amendment is recorded.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed by its duly authorized representative this 20 day of February, 2002.

DECLARANT: COMANCHE TRACE RANCH AND  
GOLF CLUB, L.L.L.P., a Colorado  
Limited liability limited partnership

BY: COMANCHE TRACE, L.L.C., a Colorado  
limited liability company, General Partner

By: Thomas H. Morril  
Title: Mgr.

STATE OF TEXAS }  
COUNTY OF KERR }

The foregoing instrument was acknowledged before me on this the 20 day of FEBRUARY, 2002, by Thomas H. Morril (personally known to me or produced as identification), \_\_\_\_\_ of COMANCHE TRACE, L.L.C., a Colorado limited liability company, on behalf of the company in its capacity as general partner of COMANCHE TRACE RANCH AND GOLF CLUB, L.L.L.P., a Colorado limited liability limited partnership.

Filed by & Return to:  
Elizabeth Roll  
3074 Bandera Hwy.  
Kerrville, TX 78603

Elizabeth S. Roll  
Notary Public for State of TEXAS  
Notary's Name Printed: ELIZABETH S. ROLLS  
My Commission Expires: \_\_\_\_\_

5371.01/CADocs **FILED FOR RECORD**

at 2:20 o'clock PM

FEB 28 2002

JANNETT PIEPER

County Clerk Kerr County, Texas  
Deputy

