

CHICAGO TITLE GF# Courtesy

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
SMITHSON VALLEY SUBDIVISION PUD**

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BEXAR §

This Declaration is made on the date hereinafter set forth by SMITHSON ROAD DEVELOPMENT, LTD., a Texas limited partnership, acting herein by and through its duly authorized General Partner, BURDICK CUSTOM HOMES, INC., a Texas corporation (hereinafter "Developer" and/or "Declarant").

WITNESSETH:

WHEREAS, Developer is the owner of that certain tract of land known as SMITHSON VALLEY SUBDIVISION PUD, containing 79.3 acres of land situated in Bexar County, Texas, which has been platted as Lots 1-28 according to the Plat of SMITHSON VALLEY SUBDIVISION PUD recorded in Volume 9658, Pages 90-95 of the Plat Records in the Office of the County Clerk of Bexar County, Texas, on the 30th day of August, 2013, after having been approved as provided by law; and

WHEREAS, the Declarant desires to hold and, from time to time, convey the Property, or any portion thereof, ~~subject to certain protective covenants, conditions, restrictions, liens, and charges hereinafter set forth; and~~

WHEREAS, Declarant wants to identify and describe the additional property which may be incorporated within the scheme of this Declaration, as well as land that may be withdrawn from the Subdivision; and

WHEREAS, Declarant desires to create and carry out a uniform plan for the improvements, development and sale of the Property for the benefit of the present and future owners of the Property;

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

ARTICLE I
DEFINITIONS

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

- 1.1 Architectural Control Committee. "Architectural Control Committee" or "ACC" or "Committee" shall mean the committee created pursuant to this Declaration and the Bylaws to review and approve Plans and Specifications for the construction of Improvements upon the Property.
- 1.2 Assessment. "Assessment" or "Assessments" shall mean such assessments or other charges as may be levied by the Association under the terms and provisions of this Declaration.
- 1.3 Association. "Association" shall mean and refer to Smithson Ridge Homeowners Association, Inc., a Texas non-profit corporation, its successors and assigns.
- 1.4 Board. "Board" shall mean the Board of Directors of the Association.
- 1.5 Bylaws. "Bylaws" shall mean the Bylaws of the Association to be adopted by the Board, and as from time to time amended.
- 1.6 Certificate of Formation. "Certificate of Formation" shall mean the Certificate of Formation of the Smithson Ridge Homeowners Association, Inc., which shall be filed in the office of the Secretary of State of Texas, and as, from time to time, amended.
- 1.7 Common Area. "Common Area" shall mean that portion of the Property owned by the Association for the common use and enjoyment of the Members of the Association including but not limited to, all parks, recreational facilities, community facilities, pumps, landscaping, sprinkler systems, pavement, streets (to the extent not owned by appropriate governmental authorities), walkways, parking lots, pipes, wires, conduits and other public utility lines situated thereon (to the extent not owned by appropriate governmental authorities or by local utility companies). The Common Area to be owned by Association shall include: (i) those areas of land shown on any recorded plat, or its equivalent, of the Property or any portion thereof filed or approved by Declarant and identified thereon as "Greenbelt" or "Amenity Area"; (ii) the unpaved and landscaped areas of the right of way for any road within the Subdivision; and (iii) those areas of land and improvements thereon deeded to the Association by Declarant.
- 1.8 Declarant or Developer. "Declarant" or "Developer" shall mean Smithson Road Development, Ltd., a Texas limited partnership, acting herein by and through its duly authorized General Partner, Burdick Custom Homes, Inc., a Texas corporation, its duly authorized representative or their respective successors or assigns; provided that any

assignment of the rights of Smithson Road Development, Ltd., a Texas limited partnership, acting herein by and through its duly authorized General Partner, Burdick Custom Homes, Inc., a Texas corporation, as Declarant must be expressly set forth in writing. The mere conveyance of a portion of the Property without written assignment of the rights of Declaration shall not be sufficient to constitute an assignment of the rights of Declarant hereunder.

- 1.9 Declarations. "Declarations" shall mean this instrument, and as it may be amended from time to time.
- 1.10 Design Guidelines. "Design Guidelines" shall mean the criteria and guidelines established by the Architectural Control Committee for the construction of Improvements within the Property.
- 1.11 Development. "Development" shall mean the Subdivision as defined herein.
- 1.12 Improvement. "Improvement" shall mean every structure, fixture, addition, and all appurtenances thereto, of every type and kind located above, below, or on the Property, including but not limited to, residences, buildings, outbuildings, storage sheds, patios, tennis courts, basketball goals, above or below ground swimming pools, garages, storage buildings, fences, trash enclosures, propane enclosures, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.
- 1.13 Lot or Tract. "Lot" or "Lots" or "Tract" or "Tracts" shall mean any tract, piece, parcel or parcels of land within the Property shown, designated and/or identified as such on a Plat of the Property, together with all Improvements located thereon.
- 1.14 Member. "Member" or "Members" shall mean any person, persons, entity or entities holding membership rights in the Association.
- 1.15 Mortgage. "Mortgage" shall mean any mortgage or deed of trust covering all or any portion of the Property given to secure the payment of a debt.
- 1.16 Mortgagee. "Mortgagee" or "Mortgagees" shall mean the holder or holders of any Mortgage or Mortgages.
- 1.17 Outbuildings. "Outbuildings" shall mean any building or structure which is not the Main Dwelling. The term "Outbuilding" includes, but is not limited to, barns, storage buildings, green houses, workshops, well houses, gazebos, cabanas, and pavilions.

- 1.18 Owner. "Owner" or "Owners" shall mean and refer to a person or persons, entity or entities, unless otherwise provided herein, and Mortgagee, holding a fee simple interest in all or any portion of the Property, but shall not include a Mortgagee holding equitable interest in said Property only as a lienholder.
- 1.19 Person. "Person" or "Persons" shall mean any individual, individuals, entity or entities having the legal right to hold title to real property.
- 1.20 Plans and Specifications. "Plans and Specifications" shall mean any and all documents designed to guide or control the construction or creation of any Improvement, including but not limited to, those indicating location, size, shape, configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, signage, lighting, elevation drawings, floor plans, specifications on all building products and construction techniques, samples of exterior colors, plans for utility services, all other documentation or information relevant to such Improvement.
- 1.21 Plat. "Plat" shall mean a final subdivision plat of any portion of the Property.
- 1.22 Smithson Valley Subdivision PUD Restrictions; Governing Documents; Dedicatory Instruments. "Smithson Valley Subdivision PUD Restrictions" and "Governing Documents" and "Dedicatory Instruments" shall each mean collectively: (i) this Declaration, together with any and all Supplemental Declarations, as the same may be amended from time to time; (ii) the Plat of Smithson Valley Subdivision PUD; (iii) the Smithson Ridge HOA Rules and Resolutions; (iv) the Design Guidelines; and (v) the Certificate of Formation and Bylaws, as the same may be amended from time to time.
- 1.23 Smithson Ridge HOA Rules. "Smithson Ridge HOA Rules" shall mean the rules and regulations adopted by the Board as the same may be amended from time to time.
- 1.24 Subdivision or Property. "Subdivision" or "Property" shall mean and refer to SMITHSON VALLEY SUBDIVISION PUD, and such other property within the Development, which has been subdivided and shown on a map or plat recorded in the Map and Plat Records of Bexar County, Texas, and brought within the scheme of this Declaration in accordance with the provisions of Article II of this Declaration.
- 1.25 Supplemental Declaration. "Supplemental Declaration" shall mean and refer to any declaration of covenants, conditions and restriction which may be recorded hereafter in order: (i) to incorporate additional property into the Development; (ii) to subject any area of the Property to further covenants, conditions or restrictions; or (iii) to withdraw land from the Property.

ARTICLE II
ADDITIONS TO THE PROPERTY

2.1 Phase Subdivision.

(A) Incorporation and Withdrawal. The Declarant, its successors and assigns, shall have the right at any time prior to January 1, 2020, to:

- (1) Annex or incorporate within the scheme of this Declaration additional phases of the Development (a) following the acquisition of such property, or (b) with the consent of the record owner of other properties; or
- (2) Withdraw any property from the Subdivision or from the terms and conditions of the restrictions. Such annexation and withdrawal of property shall occur without the consent or approval of any third party, including the Owners of any Lots.

(B) Filing Supplemental Declarations. To evidence the incorporation or annexation of additional property, or the withdrawal of property, Declarant shall record an affidavit which shall state that the property has been incorporated, annexed or withdrawn.

2.2 Merger or Consolidation of Association. Upon a merger or consolidation of the Association with another association, the Association's properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the property, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Property together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolation, however, shall affect any revocation, change or addition to the covenants established by this Declaration pertaining to the Property except as hereinafter provided.

ARTICLE III
GENERAL RESTRICTIONS

All of the Property shall be owned, held, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions:

3.1 Single Family Residential Construction. Except for Common Areas or as otherwise set forth herein, all lots shall be used solely for single family residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot or Building Site other than one single-family Main Dwelling unit ("Dwelling") per each Lot to be used solely for residential purposes. On any Lot, the Owner may construct only one (1) Guest Dwelling. With the exception of the Existing Guest Dwelling on Lot 20, Guest Dwellings must be built after or during the construction of the Main Dwelling. The term "Dwelling" does not include

manufactured, mobile, or prefabricated homes regardless of whether the same are placed upon a permanent foundation, and said homes are not permitted within the Subdivision. All Dwellings must have at least a two (2) car garage with garage door openings that face side or rear lot lines. Detached garages and/or any outbuildings must be constructed during the construction of the Dwelling or after the Dwelling is constructed. No carports are allowed. All Main Dwellings must have at least three thousand five hundred (3,500) square feet of living area for one story homes, and four thousand (4,000) square feet of living area for two story homes, with at least two thousand (2,000) square feet on the ground floor and must be built of new construction material. All Guest Dwellings must have a minimum of five hundred (500) square feet of living area and a maximum of twelve hundred (1200) square feet of living area and also must be built of new construction material. Living area does not include porches, breezeways, or garages. The foundation of the Dwelling(s) can be concrete slab, or a combination of concrete slab and piers. All piers must be constructed of concrete and rebar with no more than three (3) feet of any concrete slab left exposed. The Dwelling(s) must not exceed thirty-five (35) feet in height, at its highest point, measured from the highest elevation of virgin soil. There is no restriction on the time period in which a Dwelling, outbuilding or other improvement must be started, but once said Dwelling, outbuilding or improvements are commenced, they shall be completed as to the exterior finish and appearance within sixteen (16) months from the commencement date. Commencement of a building is defined as the setting of forms for the foundation of the building. All garages, including detached garages and outbuildings will be of the same general construction and exterior finish as the Main Dwelling, and located on the Tract according to the Committee approved building site plan. Outbuildings shall not exceed twenty (20) feet in height from the highest elevation of virgin soil. Each Tract will be limited to no more than one (1) outbuilding per acre, and a maximum of three (3) outbuildings on any Tract. All improvements must be approved in writing, prior to being erected, altered or placed on the Property.

- 3.2 Location of Improvements upon the Tract. All buildings and Improvements, except fences and driveways, shall be located a minimum of forty (40) feet from the side Property line, fifty (50) feet from the front Property line, and one hundred (100) feet from the rear Property line. At its sole discretion, the Architectural Control Committee may waive or alter any such set-back line if the waiver is necessary to permit effective utilization of a Tract. Any waiver must be in writing and recorded in the Official Public Records of Bexar County, Texas.
- 3.3 Use of Temporary Structures. The Developer reserves the right to erect, place and maintain a portable or temporary building in or upon any portion of the Subdivision as in its sole discretion may be necessary or convenient while selling Tracts, selling or constructing residences and constructing other improvements within the Subdivision. The Developer is not restricted by any of the above time constraints in this provision.

- 3.4 Alteration or Removal of Improvements. Any construction which alters the exterior appearance of any Improvement or removes any Improvement shall be performed only with prior written approval of the Architectural Control Committee.
- 3.5 Exterior Masonry. The exterior walls of any Dwellings constructed on any Tract shall be eighty-five (85) percent masonry, or masonry veneer, excluding window and door openings. Masonry or masonry veneer includes stucco, ceramic tile, clay and stone. Concrete siding material like Hardy Plank is not considered masonry. Brick may be used for accent only and for purposes of this Declaration, shall not be considered masonry. The exterior of all chimneys shall be one hundred (100) percent masonry of a type and color matching the exterior walls of the Dwelling.
- 3.6 Roofing Materials. The roof surface of all principal and secondary structures including garages and outbuildings shall be made of slate, stone, concrete tile, clay tile, or other tile of a ceramic nature, or metal. All metal roofs shall be left natural or painted a color approved by the Architectural Control Committee, using standing or battened seams. The Committee shall have the authority and sole discretion to approve other roof treatments and materials if the form utilized will be harmonious with the surrounding homes and Subdivision as a whole and complies with any rules or resolutions adopted by the Association or Committee.
- 3.7 Colors. All exterior colors of any structures must be natural or earth tones and must compliment the surrounding landscape. The Architectural Control Committee may, in its sole discretion, approve other color schemes so long as such colors compliment the Subdivision.
- 3.8 Model Homes. Notwithstanding anything herein contained, Builders shall be allowed to construct model or speculative homes so long as such model or speculative home conforms to these restrictions.
- 3.9 Walls and Fences. Walls, fences and gates, if any, must be approved by the Architectural Control Committee prior to construction. No fence may be constructed on any Lot nearer than 50 feet to the front Property line of the Lot except if the Committee grants a written variance which is filed in the Official Public Records of Real Property of Bexar County, Texas. The maximum height of any fence shall be six (6) feet. Unless otherwise approved by the Committee, all fences must be constructed of metal, masonry, masonry veneer, wrought iron, steel or a combination thereof. Barbed-wire and chain link fencing shall not be permitted. Other wire fence such as the "King Ranch" wire mesh type, may be allowed at the discretion of the ACC if aesthetically appropriate. All metal, steel, and wrought iron fences and gates shall be painted with a black finish. Pipe fencing is allowed as follows; the fence posts shall consist of two and three eighths inch (2-3/8") drill stem pipe with ten foot (10') spacing. A single top rail consisting of the same size pipe shall be placed on top of the line posts. The area between the posts shall be a solid-lock high-tensile wire or ranch panel welded to the vertical pipe and top rail. All piping must be painted black with

panels and/or solid-lock high-tensile wire left in its natural galvanized color. Any gates must be decorative and custom-made. Standard ranch-style swing gates will not be allowed. All walls, fences, and gates must be maintained in good condition.

3.10 Antennas; Towers; Satellite Dishes. Antennas, towers, or satellite dishes of any kind shall not exceed five (5) feet above the roof of the Dwelling if attached to the Dwelling, or five (5) feet above any outbuilding if attached to an outbuilding. Any antennae, tower or satellite dish must be located to the side or rear of the Dwelling or outbuilding and not within twenty five (25) feet of any side property line, fifty (50) feet of any front property line, or seventy five (75) feet of any rear property line. Nothing here shall be construed to conflict with the latest rules and regulations set forth by the Federal Communications Commission.

3.11 Light Pollution. Exterior lights such as those for security, safety, and decorative reasons are allowed, provided all exterior lighting is hooded or the main beam of light is at no greater than a thirty (30) degree angle from the ground. The purpose of any restrictions or design guidelines on all exterior lighting on the Property shall be to:

(A) Minimize light pollution of the night sky;

(B) Minimize the visibility of light sources from any part of the Property; and

(C) Enhance the aesthetic nighttime appearance of each Lot, Main Dwelling, and the Property in general by promoting a consistent and harmonious scheme for exterior lighting.

3.12 Noise Pollution. No exterior speakers, horns, whistle, bells or other sound devices (other than security devices used exclusively for security or public safety purposes) shall be located, used or placed on any Tract such that it becomes or will become clearly audible at the property line of adjoining property owners.

3.13 No Business or Commercial Activities. No activity, whether for profit or not, shall be conducted on any Tract which is not related to single family residential purposes, unless said activity meets the following criteria:

(A) No additional exterior sign of activity is present;

(B) It is the type of action that usually occurs in a home;

(C) No additional traffic, that would be there normally, is created; and

(D) Nothing dangerous is present that should not be there.

Nothing herein shall prevent an Owner from maintaining a home office so long as the requirements of (A), (B), (C) and (D) above are met. This condition is waived in regards to the customary sales activities required to sell Tracts or homes in the Subdivision.

3.14 Prohibition of Offensive Activities. No noxious or offensive activity shall be carried out upon any Tract, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. The Association shall have the sole and absolute discretion to determine what constitutes a nuisance or annoyance.

3.15 Garbage; Trash; Rubbish. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property and no odors shall be permitted to arise there from so as to render such property or any portion thereof unsanitary, unsightly, offensive, or detrimental to any other property or to its occupants.

(A) Refuse, garbage and trash shall be kept at all times in covered containers and such containers shall be kept within enclosed structures or appropriately screened from view;

(B) Each Owner shall contract and pay for regular trash services for their Lot; and

(C) In the event the Owner shall fail or refuse to keep, or cause to be kept such Owner's property or any Improvements thereon free from rubbish or debris of any kind, and such failure or refusal shall continue for fifteen (15) days after delivery of written notice thereof, then the Smithson Ridge Homeowners Association may enter upon such property and remove or correct the same at the expense of the property owner and any such entry shall not be deemed a trespass.

3.16 Inoperable Vehicles and Junk Prohibited. No Tract shall be used as a depository for inoperable, abandoned, or junk motor vehicles or other equipment. No junk of any kind or character shall be kept on any Tract.

3.17 Trailers; Recreational Vehicles; Boats. All trailers, travel trailers, graders, recreational vehicles (RV's), ATV'S, boats, tractors, campers, wagons, buses, motorcycles, motor scooters, and lawn and garden maintenance equipment shall be kept at all times, except when in actual use, in a covered enclosed structure, which structure complies with Section 3.01 hereof. The size of the enclosure must be appropriate for the size of the Lot. The Architectural Control Committee may require extensive screening of the enclosure in order to minimize its visibility from all streets, neighboring Lots, and above if the enclosure is visible from higher elevation Lots.

3.18 Signs. No permanent or temporary sign(s), advertisements or billboards of any kind shall be constructed or placed upon any Tract without prior written approval by the Architectural Control Committee.

- (A) Builders may place one professionally made "model home" sign or "Custom Build on your lot" sign on Lots owned by such Builder. Builders may also place one professionally made "For Sale" sign on a Lot owned by the Builder during construction of a Dwelling on the Lot. Professionally made does not include pre-made, store bought signs. No sign erected by a builder shall be placed closer than twenty five (25) feet from any front, side or rear property line. Notwithstanding the foregoing, the appearance, size and location of all builder signs must be approved in writing by the Architectural Control Committee;
- (B) No other real estate signs shall be allowed in the Subdivision including, but not limited to, for sale signs, sold signs, for lease signs, or for rent signs. This provision shall not apply to the Declarant so long as Declarant shall own a Tract in the Subdivision;
- (C) All permitted signs must be maintained and in the event a permitted sign is not properly maintained, the Architectural Control Committee may give the sign owner written notice thereof. Repairs required by the Committee must be made within five (5) business days from receipt of such notice. The Committee shall have the right, but not the obligation, to remove the sign or have repairs made and charged to the Lot Owner and in doing so, shall not be liable, and are hereby expressly relieved from, any liability for trespass or other tort in connection therewith, or arising from such repair.
- (D) Political signs shall be allowed pursuant to the provisions of Texas Property Code;
- (E) Nothing herein shall prevent the Association from establishing rules permitting signs related to the celebration or recognition of Religious or National Holidays or other topics deemed appropriate by the Board; and
- (F) Nothing in this provision regarding signs shall be construed to conflict with the latest statutes and rules as set forth in the Texas Property Code regarding signs.

3.19 Animal Husbandry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Tract except dogs, cats, or other household pets may be kept for domestic purposes in a quantity not to exceed 4 total per Tract. Dogs must be kept in a Dwelling, kennel, dog run, or fenced area that confines such dog(s) to the area. Dogs will not be permitted to run loose in the Subdivision and must be kept on leash if outside of those confines mentioned above. Animal breeding operations will not be allowed in the Subdivision.

3.20 Mineral Development. No commercial oil or gas drilling, oil or gas development operations, oil or gas refining, quarrying or mining operation of any kind shall be permitted upon or in any Tract. No derrick or other structures designed for the use of boring for oil or natural gas shall be erected, maintained or permitted upon any Tract. Water wells may be drilled provided said well is used for domestic and irrigation purposes only. However, this restriction is not intended to prohibit any action necessary to carry out or comply with any

fiduciary duty owed by the Association and/or the Owners to any mineral owners. Should action be necessary to carry out or comply with any fiduciary duty regarding mineral owners and mineral interests in the Property, this restriction may be waived by the Board upon filing a written waiver in the Official Public Records of Real Property of Bexar County, Texas. If such a waiver is necessary, the Association has the authority to impose reasonable restrictions upon any activities necessary to fulfill the Association's and/or Owners' fiduciary duties to the mineral owners.

- 3.21 Drainage. No person or persons shall impair the natural established drainage patterns of streets, Tracts, or roadway ditches. No creeks or natural drainage areas may be dammed, or water impounded, diverted or used for any purpose without the prior written consent of the Architectural Control Committee.
- 3.22 Driveways. All driveways must be surfaced with concrete, concrete pavers, or any combination thereof. Any driveway 100 feet or longer may be surfaced with asphalt upon written approval of the Architectural Control Committee. Driveways must be surfaced upon completion of the Main Dwelling.
- 3.23 Landscape. All homes must be landscaped within ninety (90) days of the completion of the Main Dwelling. The landscape layout and plans must be approved in writing by the Architectural Control Committee. Such landscape layout and plans shall include all landscaping, plant materials, irrigation, walls, walks, swimming pools, fences, or other features to be installed or constructed on any portion of the Tract. The Committee shall, in its sole discretion and authority, determine whether the landscape layout and plans submitted to it for review are acceptable.

Landscaping plans must be submitted for review by the Architectural Control Committee at least thirty days (30) prior to home completion.

Landscaping shall be a well-designed balance of mature trees, shrubs, and lawn grass around the perimeter of each new home. Plants must screen most of exposed foundations. This area must be watered by an irrigation system. All new landscaping turf installed or planted must be Buffalo, Blue Grama, Zoysia or Bermuda Grass. Other low water requirement turf products will be considered and may be approved by the Architectural Control Committee. All requirements for specific types of turf were included in the restrictions to encourage water conservation practices.

- 3.24 Natural Vegetation Preserve. Each Lot shall have an area twenty (20) feet from each interior side Property line, thirty-five (35) feet from each side Property line that is adjacent to a street and thirty-five (35) feet from the rear Property lines, which area shall be designated as a "Natural Vegetation Preserve." The purpose of the Natural Vegetation Preserve shall be to:

- (A) Enhance the privacy of each Lot by providing a visual and noise barrier from adjoining Lots or streets;
- (B) Provide natural habitat for wildlife; and
- (C) Preserve the natural rural character and beauty of the Development.

The Natural Vegetation Preserve must remain in its existing natural state (subject to exceptions for preserve fronting a street) and no living vegetation of any kind including trees, shrubs, grasses or any other plants shall be removed, cut or damaged in any way without the prior approval of the Architectural Control Committee or unless such removal is necessary for the construction of utilities or driveways from the street perpendicular across the Natural Vegetation Preserve on the front of the Lot. Notwithstanding the foregoing, the Natural Vegetation Preserve abutting and adjacent to any street within the Subdivision shall be mowed as necessary to remove unsightly weeds. Underbrush, however, shall remain. The Architectural Control Committee in its sole and exclusive discretion may grant variances to the Natural Vegetation Preserve requirement if:

- (A) Necessary to enhance the view from a Main Dwelling on a Lot;
- (B) Certain undesirable vegetation begins to dominate or crowd out other vegetation or grow rampantly so that it becomes a nuisance; or
- (C) The Owner of a Lot submits an alternate plan for landscaping or maintaining the Natural Vegetation Preserve across the front or side having frontage on a street which would enhance or improve the appearance of the area covered by the alternate plan.

Notwithstanding the foregoing, cedar trees less than 6 inches in diameter may be removed at any time from a Lot by the Owner or from the Common Property by the Declarant or the Association. At the option of the Architectural Control Committee, areas in the Natural Vegetation Preserve which are damaged during the construction process shall be replanted by the Owner with native vegetation indigenous to Bexar County. Native vegetation and trees indigenous to Bexar County may be added to any Natural Vegetation Preserve, and any dead trees, tree limbs, shrubs, or other plants may be removed.

3.25 Oak Wilt Prevention. Each Owner is responsible for taking action as may be necessary on his Lot to ensure that oak wilt, oak decline, and other diseases are not spread to the trees on other Lots or adjoining land. Because there is no known cure for oak wilt or oak decline, and oak wilt will usually spread from diseased tree to neighboring oaks, at a minimum, each Owner shall:

- (A) Properly destroy all infected oaks;

(B) Avoid unneeded pruning of and immediately apply dressing to all wounds on oaks (note that the period of February 1 to June 1 is when trees are the most susceptible to infestation); and

(C) Where oak wilt or oak decline is detected, trench four feet deep in advance of the infection (100 feet in advance is recommended) to stop the spread through infected roots.

The foregoing information regarding oak wilt is provided to inform Owners. Declarant shall not be liable to any Owner in connection with the existence or spread of oak wilt on any Lot.

3.26 Maintenance of Lot and Improvements. The Owner of each Lot shall maintain the Lot, Improvements, and the landscaping thereon in good condition and repair and in a neat and attractive condition regardless of whether the Owner is occupying the Lot or not. Reasonable amounts of construction materials and equipment may be stored on a Lot for reasonable periods of time during the construction of Improvements, but only if the Lot is kept in a reasonably clean and organized condition. After 15 days notice to the Owner of any Lot which sets forth the action intended to be taken by the Association and an estimated cost of the action, the Association shall have the right to take action to correct the violation provided at the end of such time such action has not already been taken by such Owner. The person who is the Owner of the Lot at the time the work is performed by the Association shall be personally obligated to reimburse the Association for the cost of such work within 15 days after it is performed by the Association. If such amount is not paid within the same period of time, the Owner shall be obligated to pay interest thereon at 6% per annum, and to pay any costs of collection, attorneys' fees, and court costs incurred by the Association in collecting said obligation, and all of the same shall be deemed Other Charges for all purposes and shall be secured by the continuing vendor's lien on such Owner's Lot.

3.27 Composite Building Site and Re-subdivision of Lot. Any Owner of one or more adjoining Lots (or portions thereof) may, with prior written approval of the Architectural Control Committee, consolidate such Lots or portions into one building site, with the privilege of placing or constructing Improvements on such resulting composite site, in which case the side set-back lines along the common lot lines shall be eliminated and said set-back lines shall thereupon be measured from the resulting side property lines rather than from the center adjacent Lot lines as indicated on the Plat. Any such Composite Building Site must have a front building set-back line of not less than the minimum front building set-back line of all Lots in the same unit. Such Composite Building Site will not be considered composite for purposes of the voting set forth in Article IV or the Assessments set forth in Article VI hereof, but such voting rights and Assessments shall be paid based on the original number of lots. Public utility and drainage easements are exempt from this provision and each Lot Owner is required to obtain any needed releases from public utility companies.

Except by the Developer who may re-subdivide Lots, no Lot shall be re-subdivided without the prior written consent of the Association.

- 3.28 Hunting. No hunting is allowed in the subdivision; no discharge of handguns, rifles, shotguns or other firearms are allowed. No bow or cross bow hunting is allowed.
- 3.29 Air Conditioners. No window or wall-type air conditioners or shall be permitted to be used, erected, placed, or maintained on or in any building on any part of the Property without the written permission of the Architectural Control Committee.
- 3.30 Swimming Pools. No swimming pool may be constructed on any Lot without the prior written approval of the Architectural Control Committee. Each application made to the Committee shall be accompanied by Plans and Specifications for the proposed swimming pool construction to be done on such Lot, including a site plan and schematic plan showing the location and dimensions of the swimming pool and all related Improvements, together with the plumbing and excavation disposal plan. The Owner shall be responsible for all necessary temporary erosion control measures required during swimming pool construction on the Lot to insure that there is no erosion into the streets, lakes, tanks, or other Lots. In no event shall swimming pools be drained or permitted to discharge water into the streets, lakes, tanks, or other Lots. All swimming pools must be enclosed with a fence (approved by the Architectural Control Committee) that is adequate to prevent unauthorized access to the swimming pool and complies with applicable law.
- 3.31 Athletic Facilities. No basketball goals or backboards or any sporting equipment or athletic facilities of either a permanent or temporary nature shall be placed on any Lot in the Subdivision where same would be readily visible from the street or an adjoining Lot and without the prior written consent of the Architectural Control Committee.
- 3.32 Septic Systems. All Owners must install an aerobic type septic system on their property if a septic system is needed. No outside toilets will be permitted, and no installation of any type of device for disposal of sewage shall be allowed which would result in raw, untreated, or unsanitary sewage being carried in the streets or into any body of water.
- 3.33 Visual Screening on Lots. No article deemed to be unsightly by the Architectural Control Committee shall be permitted to remain on any Lot so as to be visible from adjoining property or streets. The drying of clothes in public view is prohibited, and the Owners or occupants of any Lot where the rear or side yard portion of the Lot is visible to the public shall construct and maintain a drying yard or other suitable enclosure to screen drying clothes from public view. Similarly, all service areas, storage areas, loading areas, propane tanks and appurtenant equipment, yard equipment, woodpiles or storage piles shall be kept screened, in order to conceal them from view from neighboring Lots or streets.

- 3.34 Wind and Solar Devices. Installation of wind and solar devices shall be in harmony with the design of the other Improvements on the Lot and shall have received the written approval of the Architectural Control Committee and/or the Declarant before installation. The Association or Committee may adopt rules or resolutions regarding the installation of wind and solar devices which comply with the Texas Property Code.
- 3.35 Rain Water Collection. Installation of rain water collection systems shall be in harmony with the design of the other Improvements on the Lot and shall have received the written approval of the Architectural Control Committee and/or the Declarant before installation. The Association or Committee may adopt rules or resolutions regarding the installation of rain water collection systems which comply with the Texas Property Code.
- 3.36 Flags. Installation of flags shall be in harmony with the design of the other Improvements on the Lot and shall have received the written approval of the Architectural Control Committee and/or the Declarant before installation. The Association or Committee may adopt rules or resolutions regarding the installation of flags which comply with the Texas Property Code.
- 3.37 Construction Work. Construction work shall be conducted on all Lots in accordance with rules and regulations promulgated from time to time by the Association or ACC.
- 3.38 No Warranty of Enforceability. It is the Declarant's intention to comply with the Texas Property Code and any other applicable State and Federal statutes. While Declarant has no reason to believe that any of the restrictive covenants of other terms and provisions contained in this Article III or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms or provisions. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants, terms or provisions shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless there from.

ARTICLE IV
SMITHSON RIDGE HOMEOWNERS ASSOCIATION, INC.

- 4.1 Organization. The Declarant shall, at such time as Declarant deems appropriate, cause the formation and incorporation of the SMITHSON RIDGE HOMEOWNERS ASSOCIATION, INC. as a nonprofit corporation under the laws of the State of Texas. The Association shall be created for the purposes, charged with the duties, governed by the provisions, and vested with the powers prescribed by law or set forth in its Certificate of Formation and Bylaws or in this Declaration. Neither the Certificate of Formation nor Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

- 4.2 Membership. Each Owner, whether one or more persons or entities, who is the record Owner of a Lot, shall be a Member of the Association. The foregoing is not intended to include persons or entities that hold an interest merely as security for the performance of an obligation, such as mortgagees and other lienholders. Membership in the Association shall be appurtenant to and shall automatically follow the legal ownership of each Lot and may not be separated from such ownership.

Every person or entity who is a record Owner of a fee or undivided fee interest, including contract buyers, in any Lot which is subject, by covenants of record, to Assessment by the Association shall be a Member of the Association. The foregoing is not intended to include persons or entities that hold an interest merely as security for the performance of any obligation. Membership shall be appurtenant to and may not be separated from any ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership. Any Mortgagee or Lienholder who acquired title to any Lot which is a part of the Property through judicial or non-judicial foreclosure shall be a Member of the Association.

It is understood that the Development may be developed in phases or sections, and upon the completion of development of each individual section or phase by Declarant, such completed section or phase or any part thereof shall, at the option and election of Declarant, be incorporated within the scheme of this Declaration and become bound hereby and a part hereof, which incorporation shall be evidenced by the filing of the Supplemental Declaration.

- 4.3 Voting Rights. The Association shall have one class of voting memberships. Each Lot shall only have one vote regardless of the number of owners.

- 4.4 Powers and Authorities of the Association. The Association shall have the powers of the Texas Nonprofit Corporation, subject only to such limitations upon the exercise of such power as are expressly set forth in this Declaration. It shall further have the power to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by the Laws of Texas or of the two (2) preceding sentences. The Association, and the Board, acting on behalf of the Association, shall have the power and authority at all time as follows:

(A) Smithson Valley Subdivision PUD Rules and Bylaws. To make, establish and promulgate, and in its discretion amend or repeal and re-enact, such Smithson Valley Subdivision PUD Rules and Bylaws (including the adoption of fines), not in conflict with this Declaration, as it deems proper covering any and all aspects of its functions.

(B) Insurance. To obtain and maintain in effect policies of insurance which, in the opinion the Board, are reasonably necessary or appropriate to carry out the Association functions.

- (C) Records. To keep books and records of the Association's affairs.
- (D) Assessments. To levy assessments as provided in Article VI below.
- (E) Right of Entry and Enforcement. To enter at any time in an emergency (or in the case of non-emergency, after twenty-four (24) hours written notice), without being liable to any Owner, upon any Lot and into any Improvement thereon, excluding a completed Main Dwelling used as a single family residence, for the purpose of enforcing the Smithson Valley Subdivision PUD Restrictions or for the purpose of maintaining or repairing any area, Improvement or other facility to conform to the Smithson Valley Subdivision PUD Restrictions, and the expenses incurred by the Association in connection with the entry upon any Lot and the maintenance and repair work conducted thereon shall be:
- (i) A personal obligation of the Owner of the Lot entered upon;
 - (ii) A lien upon the Lot entered upon and upon the Improvements thereon; and
 - (iii) Enforced in the same manner and to the same extent as provided in Article VI hereof for regular and special assessments.
- (F) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper in the operation of the Association.
- (G) Collection for Association. The Board shall have the authority to collect and account for any assessment made by the Association created pursuant to this Declaration.
- (H) Conveyances. To grant and convey to any person or entity the real property and/or other interest therein, including fee title, leasehold estates, easements, rights-of-way, or mortgages out of, in, on, over, or under any Common Areas for the purpose of constructing, erecting, operating or maintaining the following:
- (i) Parks, parkways or other recreational facilities or structures;
 - (ii) Roads, streets, walks, driveways, trails and paths;
 - (iii) Lines, cables, wires, conduits, pipelines or other devices for utility purposes;
 - (iv) Sewers, water systems, storm water drainage systems, sprinkler systems and pipelines; and/or
 - (v) Any similar public, quasi-public or private improvements or facilities; provided, however, that the Association shall not convey fee simple title in and to, or mortgage all or any portion of any Common Areas without the consent of at least

sixty-seven (67%) of the Owners (provided however, this provision shall not restrict Developer prior to the control transfer date).

- (I) Occupancy. Nothing above contained, however, shall be construed to permit use or occupancy of any Improvement or other facility in a way which would violate applicable use and occupancy restrictions imposed thereon by other provisions of this Declaration.
- (J) Manager. To retain and pay for the services of a person or firm (the "Manager") to manage and operate the Association, including its property, to the extent deemed advisable by the Board. Additional personnel may be employed directly by the Association or may be furnished by the Manager. To the extent permitted by law, the Association and the Board may delegate any other duties, powers and functions to the Manager. The members of the Association hereby release the Association and the members of the Board from liability for any omission or improper exercise by the Manager of any such duty, power or function so delegated.
- (K) Association Property Services. To pay for water, sewer, garbage removal, landscaping, gardening and all other utilities, services and maintenance for all Common Areas, to maintain and repair easements, roads, roadways, rights-of-way, parks, parkways, median strips, sidewalks, paths, trails, ponds, lakes and other areas of the Property, as appropriate when the maintenance of same has not been accepted by the appropriate governmental entity; and to own and operate any and all types of facilities for both active and passive recreation.
- (L) Other Services and Properties. To obtain and pay for any other property and services, and to pay any other taxes or assessments which the Association or the Board is required to pay pursuant to applicable law, the terms of this Declaration, or the Certificate of Formation, or Bylaws of the Association.
- (M) Construction on Association Property. To construct new Improvements or additions to Common Areas, subject to the approval of the Architectural Control Committee as provided in this Declaration.
- (N) Contracts. To enter into contracts with Declarant and other persons on such terms and provisions as the Board shall determine to operate and maintain any Common Area or to provide any service or perform any function on behalf of Declarant or any Person.
- (O) Property Ownership. To acquire and own, subject to the provisions of Section 4.4 (H), to dispose of all manner of real and personal property, whether by grant, lease, gift or otherwise.

- 4.5 Maintenance and Landscape Authority. The Association shall maintain all streets and roadways within the Property, which have been completed but not accepted by the appropriate governmental entity for maintenance. In addition, the Association shall be authorized to landscape, maintain and repair all easements, access easements, rights-of-way, median strips, sidewalks, paths, trails, detention ponds and other areas of the Property, as appropriate. The Association shall maintain all Common Areas dedicated to the Association for maintenance, by or with the consent of Declarant. The Association shall also maintain any landscaped medians and boulevard areas, not fronting lots, located in the public right-of-way.
- 4.6 Lighting. The Association shall pay for electrical service and for all other costs and expenses necessary to operate and maintain the lighting within and on street right-of-ways and Common Areas.
- 4.7 Common Areas. Subject to and in accordance with this Declaration, the Association, acting through the Board, shall have the following duties:
- (A) To accept, own, operate, and maintain all Common Areas which may be conveyed or leased to it by Declarant, together with all Improvements of whatever kind and for whatever purpose which may be located in said area; and to maintain in good repair and condition all lands improvements and other Association property owned by or leased to the Association. Such maintenance shall include, but not be limited to, mowing and removal of rubbish or debris of any kind.
 - (B) To construct, maintain, repair and replace landscape improvements and irrigation systems within public rights-of-way pursuant to agreement(s) with the County of Bexar or other appropriate governmental authority.
 - (C) To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to any property owned by or leased to the Association, to the extent that such taxes and assessments are not levied directly upon the members of the Association. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.
 - (D) Upon the approval of two-thirds of the Owners, (excluding Declarant), to: (i) execute mortgages, both construction and permanent, for construction of facilities, including improvements on property owned by or leased to the Association; or (ii) accept lands in Common Areas, whether or not improved, from Declarant either subject to mortgages or by assuming such mortgages. Financing may be effected through conventional mortgages or deeds of trust, the issuance and sale of development or other bonds, or in any other form or manner as may be deemed appropriate by the borrower, whether the borrower is Declarant or the Association. The mortgage or other security interest given to secure repayment of any debt may consist of a first, second or other junior lien as shall be deemed appropriate by borrower, whether Declarant or

the Association, on the improvement or other facility to be constructed, together with such underlying and surrounding lands as the borrower deems appropriate. The debt secured by such mortgage or other security instrument may be retired from and secured by the revenues generated by dues, use fees or Assessments paid by the members of the Association, as the case may be, but subject to the limitations imposed by this Declaration.

(E) To take out and maintain a policy of liability insurance coverage to cover accidental bodily injury and/or death caused by the use and enjoyment of the Common Areas, as well as casualty coverage on all real and personal property owned by the Association, if and in such amounts as the Board shall deem appropriate.

4.8 Indemnification. The Association shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he is or was director, officer, committee member, employee, servant or agent of the Association against expenses, including attorney's fees, reasonably incurred by him in connection with such action, suit or proceeding if it is found and determined by the Board or a Court that he (i) acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interest of the Association, and (ii) with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceedings by settlement, or upon a plea of Nolo Contendere or its equivalent, shall not create a presumption that the person did not act in good faith or in a manner which he reasonably believed to be in, or not opposed to, the best interests of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. The Board may purchase and maintain insurance on behalf of any person who is or was a director, officer, committee member, employee, servant or agent of the Association, against any liability asserted against him or incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability hereunder or otherwise.

4.9 Roads. The roads within Smithson Valley Subdivision PUD shall be privately owned by the Homeowners Association and maintained by the Homeowners Association. Notwithstanding, each Lot owner within the Smithson Valley Subdivision PUD shall have an easement of access over and across such roads in common with all other Lot Owners at all times regardless of whether such Lot Owner is current or delinquent in payment of the maintenance fee. No Lot Owner shall take any action on or over the easement which would prevent the other Lot Owners from having access to their individual properties.

ARTICLE V ARCHITECTURAL CONTROL COMMITTEE

- 5.1 Approval of Plans and Specifications. No Improvement shall be commenced, erected, constructed, placed or maintained upon any Lot, nor shall any exterior addition, change, or alteration thereto be made until the Plans and Specifications have been approved by the Architectural Control Committee.
- 5.2 Membership of Architectural Control Committee. The Architectural Control Committee shall consist of not less than three (3) or no more than seven (7) voting members ("Voting Members") and such additional nonvoting members serving in an advisory capacity ("Advisory Members") as Declarant or its successors or assigns deems appropriate.
- 5.3 Actions of the Architectural Control Committee. The vote of a majority of all the members of the Architectural Control Committee taken with or without a meeting shall constitute an act of the Committee. The Architectural Control Committee shall keep written records of all votes taken on acts of the Committee.
- 5.4 Advisory Members. The Voting Members may from time to time designate Advisory Members.
- 5.5 Term. At such time as ninety percent (90%) of all the Lots in all units of SMITHSON VALLEY SUBDIVISION, PUD, including areas provided for under Article II hereof, are conveyed by Declarant (from time to time hereafter referred to as the "Control Transfer Date"), the Declarant shall cause an instrument transferring control of the Association and its function and the control over the Architectural Control Committee to be filed in the Official Public Records of Bexar County, Texas (which instrument shall include the Control Transfer Date, and shall appoint not less than three (3) Owners to form the Architectural Control Committee). Developer shall have and exercise sole control of and over the Association and its functions and the Architectural Control Committee until control thereof shall have been transferred to the Association as above provided. Thereafter, annually the Association shall elect members in accordance with the Bylaws. Additionally, the Declarant shall have the right to discontinue the exercise of architectural control privileges and arrange for the transfer to the Association at any time prior to the Control Transfer Date by filing a statement and instrument to such effect in the Official Public Records of Bexar County, Texas.
- 5.6 Adoption of Rules. The Architectural Control Committee may adopt such procedural and substantive rules, not in conflict with this Declaration, as it may deem necessary or proper for the performance of its duties, including but not limited to, Design Guidelines, a building code, a fire code, a housing code, and other similar codes as it may deem necessary and desirable.
- 5.7 Review of Proposed Construction. Whenever in this Declaration, or in any Supplemental Declaration, the approval of the Architectural Control Committee is required, it shall consider all of the Plans and Specifications for the Improvement(s) or proposal in question and all other relevant facts and information and may require an Owner to provide such

other information as is relevant. Except as otherwise specifically provided herein, prior to the commencement of any construction of any Improvement on the Property or any portion thereof, the Plans and Specifications therefore shall be submitted to the Architectural Control Committee, and construction thereof may not commence until the Committee has approved such Plans and Specifications in writing. The Architectural Control Committee shall approve or disapprove any plans in accordance with these restrictions within thirty days from the date of the submission of such plans. The Architectural Control Committee may postpone review of the Plans and Specifications until such time as the Committee has received all requested and necessary information so long as the Committee requests such information within ten days from the submission of the plans and specifications. If the Architectural Control Committee has not issued its approval or disapproval within thirty days from the date all information is received, the plans and specifications shall be deemed approved. The Architectural Control Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration and perform such other duties assigned to it by this Declaration or as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with Plans and Specifications approved by the Architectural Control Committee. The Architectural Control Committee shall not be responsible for reviewing or approving any proposed Improvements, nor shall its approval of any Plans and Specifications be deemed approval thereof from the standpoint of structural safety, engineering soundness, or conformance with building or other codes.

5.8 Variances. The Developer or, if applicable, the Committee, may, on a case by case basis, authorize variances from compliance with any of the provisions of either: (i) this Declaration, or (ii) the minimum acceptable construction standards or regulations and requirements as promulgated from time to time by the Developer or the Committee. Notwithstanding, after the Control Transfer Date, both the Developer and the Architectural Control Committee shall have the right to grant a variance from the Building set-back line restrictions. Either party may grant this variance, if it determines in its sole discretion is needed, without the consent of the other. Such variances must be evidenced in writing and shall become effective when signed by the Declarant or at least a majority of the members of the Committee. If any such variances are granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance is granted. However, the granting of a variance shall not operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provisions covered by the variance, nor shall the granting of any variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the Lot concerned and the Plat.

5.9 No Waiver of Future Approvals. The approval or consent of the Architectural Control Committee to any Plans or Specifications for any work done or proposed in connection with any matter requiring the approval or consent of the Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans and

Specifications, or other matter subsequently or additionally submitted for approval or consent by the same or a different person at a future date.

- 5.10 Work in Progress. The Architectural Control Committee may, but is not required to, inspect all work in progress to ensure compliance with approved Plans and Specifications.
- 5.11 No Compensation for Service. No person serving on the Architectural Control Committee shall be entitled to compensation for services performed pursuant to this Declaration. However, the Committee may be reimbursed for expenses incurred in performing their duties. The Association or Committee may employ one or more architects, engineers, attorneys, or other consultants to assist the Architectural Control Committee in carrying out its duties hereunder and the Association shall pay such consultants for such services as they render to the Architectural Control Committee.

ARTICLE VI ASSESSMENTS AND FUNDS

- 6.1 Creation of Lien and Personal Obligation for Assessments. Each Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association as to each such Lot:
- (A) "Capital Reserve Contribution" which is a non-refundable amount payable at the closing of each and every sale of a Lot which is equal to \$1,000.00 or the Annual Assessment then being charged all Owners (whichever is higher) and which is to be placed in a special reserve account for capital repairs and replacements;
 - (B) "Annual Assessments" for operating expenses of the Association to be established and collected as hereinafter provided;
 - (C) "Special Assessments" for extraordinary expenses, such special assessments to be established and collected as hereinafter provided;
 - (D) "Other Charges" which are comprised of any fire assessment, municipal utility district assessments, water assessment, emergency service assessment, trash collection, late fees, interest, charges, fines, and other costs of collection and enforcement, including reasonable attorney's fees, as permitted by this Declaration.
- 6.2 Personal Obligation for Payment of Assessments. Any and all such capital reserve contributions, annual assessments, special assessments, and other charges (hereinafter referred to collectively as "Assessments"), together with any interest which may accrue thereon in accordance with this Declaration, and any and all costs, including collection costs and reasonable attorneys' fees which may be incurred by the Association in the collection of such Assessments, or in the enforcement of the covenants, conditions and

restrictions of this Declaration or Governing Documents against any Lot or the Owner thereof, shall be a charge against and shall be secured by a continuing vendor's lien upon the Lot against which each such Assessment is made or enforcement is sought, and shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment fell due or the enforcement of the covenants, conditions and restrictions of this Declaration was commenced. The personal obligation for delinquent Assessments shall be secured by the continuing lien upon the Lot.

- 6.3 Purpose of Annual Assessments. The Annual Assessments levied by the Association shall be used to improve, beautify, maintain, manage, and operate the Association and Common Properties; to pay taxes and insurance premiums thereon; and to promote the recreation, health, safety, convenience, and welfare of the Owners.
- 6.4 Purpose of Capital Reserve Contribution. In order to establish a well-capitalized Association with new Owners contributing to those capital improvements that benefit their ownership, each Owner shall, at the closing of each Lot, contribute a non-refundable payment to the Association equal to \$1,000.00 or the amount of the Annual Assessment then being charged all Owners (whichever is higher). Such contributions shall be restricted funds to be used for the repair and replacement of capital improvements owned, lease or utilized by the Association and its members.
- 6.5 Annual Assessments. Following the conveyance by Declarant of the first Lot to an Owner, the initial annual assessment shall be \$600.00 for each Lot. The Assessments provided for herein shall be payable by the Owner of each Lot. Notwithstanding, Developer shall not be required to pay assessments on any Lot owned by Developer.
- (A) From and after January 1 of the year immediately following the conveyance of fee simple title to the first Lot to an Owner, the maximum annual assessment may be increased each year by not more than ten percent (10%) (such percentage increase may be cumulative from year to year) by the Board of Directors. Any increase above the maximum 10% permitted herein, shall require the approval of at least fifty percent (50%) plus one of the eligible votes in the Association.
- (B) The Board shall fix the Annual Assessment no later than thirty (30) days prior to the end of the fiscal year of the Association. The Board shall also have the authority to establish or agree to alternate payment schedules for Assessments.
- (C) The Board shall establish a maintenance fund into which all monies paid to the Association shall be deposited and from which disbursements shall be made in performing the functions of the Association under this Declaration. The funds of the Association must be used solely for purposes authorized by this Declaration, as it may from time to time be amended.

- 6.6 Special Assessments. The Association may levy against each Lot a special assessment for the purpose of defraying, in whole or in part, the extraordinary cost of any construction, reconstruction, purchase, acquisition, repair or replacement of a capital improvement of the Association. Special assessments must be approved by at least fifty percent (50%) plus one of the eligible votes in the Association.
- 6.7 Assessments Levied on Uniform Basis. To the extent practicable, all annual assessments and special assessments shall be established and collected on an equal and uniform basis with every Lot covered by this Declaration (including additions thereto).
- 6.8 Commencement of Assessments; Due Dates. The annual assessments provided for herein shall commence on each Lot owned by an Owner, other than Declarant, on the day the Owner takes title to a Lot. The amount of the annual assessment on each Lot for the first year shall be prorated based on the remaining number of days in the year, and shall be due and payable on the day of conveyance of the Lot. After the first year, the annual assessment of such Lot for such calendar year shall be due and payable on the first day of January in said year, or as determined by the Board. The due date of any special assessment shall be fixed in the resolution of the members of the Association authorizing or approving such assessment.
- 6.9 Certification of Assessments and/or Charges. The Association shall, upon demand at any time, furnish to any Owner a certificate in writing signed by an officer or agent of the Association setting forth whether or not there are any unpaid assessments or charges against said Owner's Lot. Such certificate shall be conclusive evidence of payment of any assessments or Charges therein stated having been paid, as to any third party who in good faith relies thereon. The Association is authorized to charge a fee, to be established from time to time by the Board, for issuance of a certificate.
- 6.10 Establishment of Charges. Should any Owner or occupant of a Lot fail or refuse to comply with the terms and provisions of this Declaration and Governing Documents, the Association, or its successors and assigns, acting by and through its duly authorized officers, the Board or its duly authorized agent, without liability to the Owner or occupant in trespass or otherwise, may, after 15 days written notice to the Owner or occupant and failure of the Owner or occupant to comply with the terms of such notice, enter upon the Lot and do or cause to be done such action as shall be necessary to bring the Lot and the improvements thereon into compliance with this Declaration and charge owner for any costs incurred.

Likewise, the Association, any Owner or the Declarant, and their respective successors and assigns, shall have the right to enforce, by a proceeding at law or in equity, all easements, restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration and in connection therewith shall be entitled to recover all reasonable costs and attorneys' fees incurred in pursuance of such enforcement rights.

All charges incurred by the Association or the Declarant in carrying out such action to secure compliance with the terms and provisions of this Declaration and Governing Documents shall be billed to the Owner of the Lot by the Association by placing such bill in the United States Mail, postage paid. Any charges which are not paid within thirty (30) days after the same is billed shall bear interest from the date each cost composing the charges was incurred, until paid, at an interest rate of 6% per annum and will be secured by a continuing vendor's lien upon the Lot against which such charges are made and it shall also be the personal obligation of the Owner of such Lot at the time the action in enforcement of the terms of this Declaration was commenced and will continue to be an obligation of successive owners as well.

6.11 Effect of Non-Payment of Assessments and/or Charges; Remedies of the Association.

Any Assessment not paid within 30 days after the same is billed shall bear interest and/or late fees (which may be established from time to time by the Board), from the date due and payable until paid, at 6% per annum or as allowed by applicable law. The Association may bring an action at law against the Owner personally obligated to pay any assessment or Charges or foreclose the lien against the Lot, and all late fees, interest, costs and reasonable attorneys' fees incurred in any such action shall be added to the amount of such assessments or Charges. No Owner may waive or otherwise escape liability for the assessments or Charges provided for herein by non-use of the Common Areas or abandonment of his or her Lot.

6.12 Foreclosure; Judicial and Non-Judicial. In order to secure the payment of the Assessments and other charges hereby levied, each Owner of a Lot in the Subdivision, by such party's acceptance of a deed thereto, hereby grants to the Association a contractual lien on such Lot which may be foreclosed on by judicial or non-judicial foreclosure, pursuant to the provisions of Sections 51.002 and 209 of the Texas Property Code (and any successor statute); and each such owner hereby expressly grants the Association a power of sale in connection with such statute.

The Association shall, whenever it proceeds with non-judicial foreclosure pursuant to the provisions of Sections 51.002 and 209 of the Texas Property Code and said power of sale designate in writing a Trustee to post or cause to be posted all required notices of such foreclosure sale and to conduct such foreclosure sale. The Trustee may be changed at any time and from time to time by the Association by means of written instrument executed by the President or any Vice-President of the Association and filed for record in the Official Public Records of Bexar County, Texas.

In the event that the Association has determined to non-judicially foreclose the lien pursuant to the provisions of said Sections 51.002 and 209 of the Texas Property Code and to exercise the power of sale hereby granted, the Association, or the Association's agent, shall give notice of foreclosure sale as provided by the Texas Property Code as then amended.

Upon request by Association, the Trustee shall give any further notice of foreclosure sale as may be required by the Texas Property Code as then amended, and shall convey such Lot to the highest bidder for cash by Deed. Out of the proceeds of such sale, if any, there shall first be paid all expenses incurred by the Association in connection with such default, including reasonable attorney's fees and a reasonable trustee's fee; second, from such proceeds there shall be paid to the Association an amount equal to the amount in default; and third, the remaining balance shall be paid to such Owner.

Subject to Section 209 of the Texas Property Code, following any such foreclosure, each occupant of any such Lot foreclosed on and each occupant of any improvements thereon shall be deemed to be a tenant at sufferance and may be removed from possession by any and all lawful means, including a judgment for possession in action of forcible detainer and the issuance of a writ of restitution there under. In the event of non-payment by any Owner of any Assessments or other charge levied hereunder, the Association may, in addition to foreclosing the lien and exercising the remedies provided, upon 15 days prior written notice to such non-paying Owner, exercise all other rights and remedies available at law or in equity.

It is the intent of the provisions of this Section 6.12 to comply with the provisions of Sections 51.002 and 209 of the Texas Property Code relating to non-judicial sales by power of sale and, in the event of the amendment of Sections 51.002 or 209 of the Texas Property code hereafter, the President or any Vice-President of the Association, acting without joinder of any other Owner or mortgagee or other person may, by amendment to this Declaration filed in the Official Public Records of Bexar County, Texas, amend the provisions hereof so as to comply with said amendments to Section 51.002 or 209 of the Texas Property Code.

6.13 Notice of Lien. The Association may file a claim or lien against the Lot of the delinquent Owner by recording a notice ("Notice of Lien") setting forth: (a) the amount of the claim of delinquency; (b) the legal description and street address of the Lot against which the lien is claimed; and (c) the name of the Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or other duly authorized agent of the Association. The lien shall continue until the amounts secured hereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Notice of Lien and all other costs and assessments which may have accrued subsequent to the filing of the Notice of Lien have been fully paid or satisfied, the Association shall execute and record a notice releasing the Notice of Lien upon payment by the Owner of a reasonable fee as fixed by the Board of Directors to cover the preparation and recordation of such release of lien instrument.

6.14 Subordination of the Lien to Mortgages. The lien securing any Assessment or Charges provided for herein shall be subordinate to the first lien of any mortgage(s) now or hereafter placed upon the property subject to the Assessment or Charges for the purpose

of securing indebtedness incurred to purchase or improve the property, provided, however, that such subordination shall apply only to the Assessments or Charges which have become due and payable prior to enforcement of such purchase money or improvement lien by a sale or transfer of such property pursuant to a decree of foreclosure. Such sale or transfer shall not relieve such property from liability for any Assessment or Charges thereafter becoming due, or from the lien securing any such subsequent Assessment or Charges.

In addition to the automatic subordination provided for above, the Association, in the discretion of its Board, may subordinate the lien securing any Assessment or Charges provided for herein to any other mortgage, lien or encumbrance, subject to such limitations, if any, as such Board may determine. The Association shall make a good faith effort to give each such mortgagee sixty (60) days advance written notice of the Association's proposed foreclosure of lien described in Section 6.5 hereof, which notice shall be sent the nearest office of such mortgagee by prepaid United States registered or Certified mail, return receipt requested, and shall contain a statement of delinquent Assessments or other charges upon which the proposed action is based provided, however, the Association's failure to give such notice shall not impair or invalidate any foreclosure conducted by the Association pursuant to the provisions of this Article VI.

ARTICLE VII EASEMENTS

- 7.1 Reserved Easements. All dedications, limitations, restrictions and reservations shown on a Plat and all grants and dedications of easements, rights-of-way, restrictions and related rights, made by Declarant prior to the Property becoming subject to this Declaration, are incorporated herein by reference and made a part of this Declaration for all purposes, as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Property.
- 7.2 Installation and Maintenance. There is hereby created an easement upon, across, over and under all of the easement area affecting the Property for ingress and egress in connection with installing, replacing, repairing and maintaining all utilities, including, but not limited to, water (if any), sewer (if any), gas (if any), cable television (if any), telephones, electricity and appurtenances thereto. By virtue of this easement, it shall be expressly permissible for the utility companies and other entities supplying service to install and maintain pipes, wires, conduits, service lines or other utility facilities or appurtenances thereto, on, above, across and under the Property, within the public utility easements from time to time existing and from service lines situated within such easements to the point of service on or in any Improvement. Notwithstanding any provision contained in this section, no sewer, electrical lines, water lines or other utilities or appurtenances thereto may be relocated on the Property until approved by Declarant or

the Architectural Control Committee. Additionally, it shall be expressly permissible for the utility companies and other entities supplying service to trim overhanging trees and shrubs which are located on portions of the Property abutting such easements in the event it shall be determined that such overhanging limbs and shrubs shall interfere with the maintenance of the underground utilities.

- 7.3 Drainage Easements. Each Owner covenants to provide easements for drainage and water flow, as contours of land and the arrangement of Improvements approved by the Architectural Control Committee thereon, require. Each Owner further covenants not to disturb or displace any trees or other vegetation within the drainage easements as defined in this Declaration and shown on the Plat. There shall be no construction of Improvements, temporary or permanent in any drainage easement. Owner cannot alter or divert water onto another lot.
- 7.4 Surface Areas. Each Owner shall maintain the surface area of all easements located within his Lot and all improvements located therein except for such improvements for which a public authority or utility company is responsible. The surface of easement areas for underground utility services may be used for planting of shrubbery, trees, lawns or flowers. However, neither the Declarant nor any supplier of any utility or service using any easement are shall be liable to any owner or to the Association for any damage done by them or either of them or their respective agents, employees, servants or assigns, to any of the aforesaid vegetation as a result of any activity relating to the construction, maintenance, operation or repair of any facility in any such easement area.
- 7.5 Title to Easement and Appurtenances Not Covered. Title to any Lot conveyed by Declarant by contract, deed or other conveyance shall not be held or construed in any event to include the title to any roadways or Greenbelt or Common Area or any drainage, water, gas, sewer, storm sewer, electrical light, electrical power, telegraph or telephone way, or any pipes, lines poles or conduits on or in any utility facility or appurtenances thereto, constructed by or under Declarant's direction, or by its agents through, along, under or upon any Lot or any part thereof to serve said Lot or any other portion of the Property, and the right to maintain, repair, sell, or lease such appurtenances to any municipality or other governmental agency or to any public service corporation or to any other party is hereby expressly reserved by Declarant.
- 7.6 Common Areas. Each Owner shall have an easement of use and enjoyment in and to all Common Areas which shall be appurtenant to and shall run with title to such Owner's Lot, subject to the following restrictions:
- (A) The right of the Association to suspend the Owner's right to use the Common Areas for any period, during which any Assessment against such Owner's Lot remains unpaid, and for any period during which the Owner is in violation of the rules and regulations of the Association;

- (B) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be approved by a majority vote of the Members;
- (C) The right of the Association to borrow money for the purpose of improving the Greenbelt or Common Areas and, in furtherance thereof, to mortgage the Greenbelt or Common Areas, all in accordance with the Certificate of Formation and Bylaws;
- (D) The right of the Association to make reasonable rules and regulations regarding the use of the Common Areas and any facilities thereon; and
- (E) The right of the Association to contract for services with third parties on such terms and the Association may determine.

ARTICLE VIII
MISCELLANEOUS

- 8.1 Term. This Declaration, including all of the covenants, conditions, and restrictions hereof, shall run until January 1, 2025, unless amended as herein provided. After January 1, 2025, this Declaration, including all such covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by the Owners of at least 75% of the Lots within the Property then subject to this Declaration.
- 8.2 Non-liability of Board and Architectural Control Committee Members. Neither the Architectural Control Committee, nor any member thereof, nor the Board nor any member thereof, shall be liable to the Association or to any Owner or to any other person for any loss, damage or injury arising out of their being in any way, manner or form connected with the performance of the Architectural Control Committee's or the Board's respective duties under this Declaration unless due to the willful misconduct or bad faith of the Architectural Control Committee or its members or the Board or its members, as the case may be. Neither the Architectural Control Committee nor the members thereof shall be liable to any Owner due to the construction of any Improvement within the Property.
- 8.3 Amendment.
 - (A) By Declarant. This Declaration or any Supplemental Declaration may be amended by the Declarant acting alone until January 1, 2016, or until Declarant shall have transferred control of and over the Association and the Architectural Control Committee and their functions to the Association as provided in Section 5.5 in the Association, whichever occurs last. No amendments by Declarant after January 1, 2016, shall be effective until there has been recorded in the Official Public Records of Bexar County, Texas, an instrument approved and executed and acknowledged by

Declarant and setting forth the amendment, and an instrument executed and acknowledged by the President and Secretary of the Board certifying that the Declarant had the requisite number of votes. Notwithstanding the foregoing, Declarant may unilaterally amend this Declaration at any time to correct typographical and grammatical errors, oversights, ambiguities, and/or inconsistencies, provided that any such Amendment shall not impair or adversely affect the vested property, or other rights of any Owner or his mortgagee.

(B) By Owners. In addition to the method in Section 8.3(A), after the later of January 1, 2016 or the Control Transfer Date, this Declaration may be amended by recording in the Official Public Records of Bexar County, Texas, an instrument approved and executed and acknowledged by the President and Secretary of the Association, setting forth the amendment and certifying that such amendment has been approved by Owners entitled to cast at least seventy percent (70%) of the number of votes to be cast pursuant to Section 4.2 hereof.

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

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

8.6 Mergers and Consolidations. Subject to the provisions of Article 2.2 hereof, the Association may participate in mergers and consolidations with other non-profit corporations organized for the same purposes, provided that any such merger, consolidation or annexation shall have the consent (in writing or at a meeting duly called for such purpose) of those Members entitled to cast not less than seventy percent (70%) of the votes of the Association.

8.7 Exemption of Declarant. Notwithstanding any provision in this Declaration to the contrary, neither Declarant nor any of Declarant's activities shall in any way be subject to the control of or under the jurisdiction of the Architectural Control Committee. Without in any way limiting the generality of the preceding sentence, it is specifically provided that this Declaration shall not prevent or limit the right of Declarant to excavate and grade, to construct and alter drainage patterns and facilities to construct any and all other types of

improvements anywhere within the Property, however, the construction of sales and leasing offices and the posting of sign advertising the sale and leasing of Lots by Declarant shall be limited to Lots owned by the Declarant.

8.8 Assignment by Declarant. Notwithstanding any provision in this Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights and duties under this Declaration to any other person or entity and may permit the participation, in whole or in part, by any other person or entity in any of its privileges, exemptions, rights and duties hereunder.

8.9 Enforcement and Nonwaiver. The terms and provisions of this Declaration shall run with and bind the land within the Property, and shall inure to the benefit of and be enforceable by Declarant, the Association and the Owner of any Lot, and by their respective legal representatives, heirs, successors and assigns. This Declaration may be enforced in any proceeding at law or in equity against any person or entity violating, or threatening to violate any term or provision hereof, to enjoin or restrain violation or to recover damages, and against the Property to enforce any lien created by this Declaration. Failure of Declarant, the Association, or any Owner to enforce any term or provision of this Declaration shall never be deemed a waiver of the right to do so thereafter. All remedies provided in this article are cumulative and not exclusive. In addition to other rights and remedies the Association has the following right to enforce the Governing Documents, subject to any applicable notice and hearing requirements:

(A) Nuisance. Every act or omission that violates any provision of the Governing Documents is a nuisance, and any remedy allowed by law against a nuisance, either public or private, is applicable against the violation.

(B) Fine. The Association may levy reasonable charges, as an individual assessment against an Owner and his Lot if the Owner or resident, or the Owner or resident's family, guests, employees, agents, or contractors violate a provision of the Governing Documents. Fines may be levied for each act of violation or for each day a violation continues, and does not constitute a waiver or discharge of the Owners obligations under the Governing Documents.

(C) Suspension. The Association may suspend the right of Owners and residents use of Common Areas for any period during which the Owner or resident, or the owner or resident's family, guests, employees, agents, or contractors violate the Governing Documents, however, the Association may not impair the Owners ingress and egress to their Lot or prevent them from voting in elections or running for a position on the Board of Directors. A suspension does not constitute a waiver or discharge of the Owner's obligations under the documents.

(D) Self-Help. The Association has the right to enter any part of the Property, including Lots, to abate or remove a violation pursuant to the terms herein.

(E) Suit. Failure to comply with the Smithson Valley Subdivision Restrictions will be grounds for an action to recover damages or for injunctive relief to cause any such

violation to be remedied, or both. Prior to commencing any legal proceeding, the Association shall give the defaulting party reasonable notice and an opportunity to cure the violation, except, when the Association seeks a temporary restraining order or the violation is a significant and immediate risk of harm to others in the Subdivision.

- (F) Liens. The Association shall have the right, when appropriate in its judgment, to claim or impose a lien upon any Lot or Improvement constructed thereon in order to enforce any right or effect compliance with this Declaration.
- (G) Other. The Association is also authorized to settle claims and take all such action as it may deem necessary or expedient to enforce the Smithson Valley Subdivision PUD Restrictions; provided, however, that the Board shall never be authorized to expend any Association funds for the purpose of bringing suit against Declarant, its successors or assigns.

8.10 Construction.

- (A) Restrictions Severable. The provisions of the Smithson Valley Subdivision PUD Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.
- (B) Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.
- (C) Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise effect that which is set forth in any of the paragraphs, sections or articles hereof.

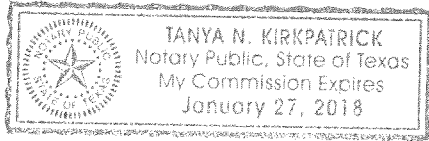
IN WITNESS WHEREOF, Declarant has executed this Declaration as of this the 30 day of July, 2014.

SMITHSON ROAD DEVELOPMENT, LTD.,
a Texas Limited Partnership
By: BURDICK CUSTOM HOMES, INC.,
a Texas Corporation, Its General Partner

By: Arthur C. Burdick, Jr.
Arthur C. Burdick, Jr., President

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This instrument was acknowledged before me on this 30th day of July, 2014, by Arthur C. Burdick, Jr., President of BURDICK CUSTOM HOMES, INC., a Texas Corporation, as General Partner for SMITHSON ROAD DEVELOPMENT, LTD., a Texas Limited Partnership, in the capacity therein stated, on behalf of said Company.



Tanya N. Kirkpatrick
Notary Public, State of Texas
My Commission Expires: 1/27/18

**AGREEMENT TO BE BOUND BY
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
SMITHSON VALLEY SUBDIVISION PUD**

IN WITNESS WHEREOF, the parties hereto execute this *Agreement to Be Bound By Declaration of Covenants, Conditions and Restrictions – Smithson Valley Subdivision PUD* on this the 30 day of July, 2014; and do hereby approve, accept, and consent to the application of the above-referenced dedicatory instrument as to the following property which is owned by the undersigned:

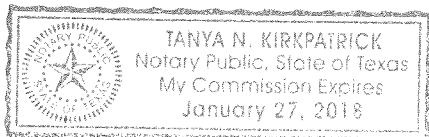
Legal Description: Lot(s) 14 & 20
Smithson Valley Subdivision PUD
Bexar County, Texas

BURDICK-SHAVANO HOMES, LTD.,
a Texas Limited Partnership
By: BURDICK CUSTOM HOMES, INC.,
a Texas Corporation, Its General Partner

By: Arthur C. Burdick, Jr.
Arthur C. Burdick, Jr., President

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This instrument was acknowledged before me on this 30th day of July, 2014, by Arthur C. Burdick, Jr., President of BURDICK CUSTOM HOMES, INC., a Texas Corporation, as General Partner for BURDICK-SHAVANO HOMES, LTD., a Texas Limited Partnership, in the capacity therein stated, on behalf of said Company.



Tanya N. Kirkpatrick
Notary Public, State of Texas
My Commission Expires: 1/27/18

**AGREEMENT TO BE BOUND BY
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
SMITHSON VALLEY SUBDIVISION PUD**

IN WITNESS WHEREOF, the parties hereto execute this *Agreement to Be Bound By Declaration of Covenants, Conditions and Restrictions – Smithson Valley Subdivision PUD* on this the 30 day of July, 2014; and do hereby approve, accept, and consent to the application of the above-referenced dedicatory instrument as to the following property which is owned by the undersigned:

Legal Description: Lot(s) 23+25
Smithson Valley Subdivision PUD
Bexar County, Texas

BURDICK PARTNERS, LTD.,
a Texas Limited Partnership
By: BURDICK-HERBER MANAGEMENT, INC.,
a Texas Corporation, Its General Partner

By: Arthur C. Burdick, Jr.
Arthur C. Burdick, Jr., President

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This instrument was acknowledged before me on this 30th day of July, 2014, by Arthur C. Burdick, Jr., President of BURDICK-HERBER MANAGEMENT, INC., a Texas Corporation, as General Partner for BURDICK PARTNERS, LTD., a Texas Limited Partnership, in the capacity therein stated, on behalf of said Company.



Tanya N. Kirkpatrick
Notary Public, State of Texas
My Commission Expires: 1/27/18

After Recording Return to:
Burdick Custom Homes, Inc.
C/o Law Office of Amy M. McLin, P.C.
1100 N.W. Loop 410, Suite 700, PMB #101
San Antonio, Texas 78213

Doc# 20140128870
Pages 37
07/30/2014 3:29PM
e-Filed & e-Recorded in the
Official Public Records of
BEXAR COUNTY
GERARD C. RICKHOFF
COUNTY CLERK
Fees \$166.00

STATE OF TEXAS
COUNTY OF BEXAR
This is to Certify that this document
was e-FILED and e-RECORDED in the Official
Public Records of Bexar County, Texas
on this date and time stamped thereon.
07/30/2014 3:29PM
COUNTY CLERK, BEXAR COUNTY TEXAS



Gerard C. Rickhoff