

1989

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS

FOR  
THE SEVENTH

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

FIRST STATE FEDERAL SAVINGS ASSOCIATION, as successor-in-interest to FIRST STATE SAVINGS ASSOCIATION ("Declarant"), being the owner of the Project (as hereinafter defined), desires to establish and carry out a uniform plan for the use, development, improvement and sale of the Project for the present and future owners of the Project. Declarant hereby declares, establishes and adopts the covenants, restrictions, reservations and conditions set forth below (herein collectively called the "Restrictions"), which shall be applicable to the use, development, improvement and sale of the Project. Every contract, deed or other instrument hereafter executed and covering the Project or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to these Restrictions regardless of whether or not these Restrictions are set out in full or incorporated by reference in said contract, deed or other instrument.

ARTICLE ONE  
DEFINITIONS

As used in this Declaration, the terms set forth below shall have the meanings indicated:

1. Association -- The Seventh Homeowner's Association, Inc., a Texas non-profit corporation, now existing or to be created after the date hereof, the Members of which shall be the Owners of the Townhouses or Lots.
2. Board -- The Board of Directors of the Association.
3. Bylaws -- The bylaws of the Association.
4. Common Areas -- All of the Project, other than the Lots, and all personal property now or hereafter owned by the Association.
5. Common Expense Charge -- The assessment levied pursuant to Article Four hereof for managing, operating, repairing and insuring the Project (including reserves for replacement).
6. Common Fund -- Any accumulation of (i) the Common Expense Charges collected by the Board pursuant to Article Four hereof for the continued maintenance, insuring, repair and operation of any portion of the Project, and (ii) interest, penalties, assessments and other sums and revenues collected by the Board pursuant to this Declaration.
7. Declarant -- First State Federal Savings Association, a Texas savings and loan association.
8. Enclosed Portion -- All of a Lot (including the Townhouse erected on such Lot) other than the Outer Portion.
9. Exterior -- All of a Lot other than the Interior of the Townhouse located on such Lot.

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10. Fractional Interest -- With respect to each Improved Lot, a fraction, the numerator of which is one (1) and the denominator of which is the number of Improved Lots, but not more than fifty-five (55).
11. Improved Lot -- Any Lot on which construction of a Townhouse has been commenced.
12. Interior -- That portion of a Townhouse that is not visible from any Common Area or from any other Lot or Townhouse.
13. Land -- That certain tract or parcel of land containing approximately 7.372 acres situated in Bexar County, Texas, which tract or parcel of land is more particularly described on Exhibit "A" attached hereto.
14. Lot -- Each of the following lots depicted on the Subdivision Plat of The 7th at Sonterra Subdivision, filed for record on May 29, 1986, in Volume 9513, Page 150, of the Deed and Plat Records of Bexar County, Texas: Lots 1 through 11 of Block 14 and Lots 2 through 5, 7 through 9, 11 through 15, 17 through 20, 22 through 27, 29 through 33, 35 through 38, 40 through 43, 45 through 49, 51, 52, 54 and 55 of Block 15, together with all improvements (including Townhouses) erected thereon.
15. Member -- A member of the Association.
16. Mortgage -- A mortgage, deed of trust or other instrument executed by an owner, duly recorded in the Real Property Records of Bexar County, Texas, and creating a lien or security interest encumbering a Lot and securing the repayment of a loan.
17. Mortgagee -- The person who holds a Mortgage as security for repayment of a loan.
18. Outer Portion -- The portion of a Lot consisting of all fences located on such Lot and all areas of such Lot located outside such fences.
19. Owner -- Any person, firm, corporation or other entity or any combination thereof which owns, of record, full fee simple title to a Lot.
20. Price Index -- The Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor, or any successor publication.
21. Project -- The Land, together with all improvements now or hereafter situated thereon, and all rights and appurtenances thereto.
22. Project Affairs -- All of the affairs of the Project to be administered or managed by the Association, as more fully described in Article Three, Section 1 of this Declaration.
23. Replacement Reserve Fund -- The reserve fund established pursuant to Article Four hereof for maintenance, repairs and replacements to the Project.
24. Rules and Regulations -- The rules adopted from time to time by the Board concerning the management and administration of the Project for the use, benefit and enjoyment of Owners.
25. Townhouse -- All of the improvements, other than the fence, erected on a Lot.
26. Unimproved Lot -- Any Lot on which construction of a Townhouse has not yet begun.

ARTICLE TWO

GENERAL PROVISIONS RELATING  
TO USE AND OCCUPANCY

Section 1. Use Restrictions. Subject to the provisions of Article Eight hereof, each Owner shall use his Lot solely for residential purposes, and no business, professional or other commercial activity of any type shall be operated from or out of any Lot or any Common Area. No Owner shall use or permit such Owner's Lot or any Common Area to be used for any purpose which would (i) void any insurance in force with respect to the Project; (ii) make it impossible to obtain any insurance required by this Declaration; (iii) constitute a public or private nuisance, which determination may be made by the Board in its sole discretion; (iv) constitute a violation of any applicable law, ordinance, rule or regulation (including the Rules and Regulations); or (v) unreasonably interfere with the use and occupancy of the Project by other Owners. No more than one (1) household pet shall be permitted as to each Lot, except as otherwise permitted in writing by the Board. No boat, boat trailer, travel trailer, inoperative automobile, camper or vehicle of any kind shall be temporarily or permanently stored on any portion of any of the Lots that is visible from any Common Area or from any other Lot, and no repairs of any types of vehicles shall be performed at a location on any Lot that is visible from any Common Area or from any other Lot. No electronic antenna or device of any other type for receiving television, radio or other signals shall be erected, constructed, placed or permitted to remain on any Lot or Townhouse.

Section 2. Construction, Declaration, Maintenance, Alteration and Repairs.

(a) No building or improvement of any kind that will be visible from any other Lot or Townhouse or from any Common Area shall be erected, placed or constructed, or the erection, placement or construction thereof begun or change made in the design thereof after original construction, on any portion of the Land until the final construction plans and specifications and the final plans showing the location of such building or improvement have been submitted to and approved in writing by the Board (such final construction plans and specifications and such final plans showing the location of such building or improvement herein being collectively called "Plans"). In determining whether such Plans shall be approved, the Board may take into consideration factors deemed appropriate by the Board. Such factors may include the following:

- (1) Compliance with this Declaration;
- (2) Quality of the building materials;
- (3) Harmony of external design of such building or improvement with existing and proposed buildings and improvements;
- (4) Location of such building or improvement within the Lot on which it will be constructed; and
- (5) The number of square feet to be contained in such building or improvement.

If the Board fails to indicate its approval or disapproval within forty-five (45) days after the receipt of the Plans, it will be deemed that the Board has approved the Plans. All decisions of the Board shall be final and binding, and there shall be no review of any such action of the Board. In no event shall the Board be liable to any party for damages, or be subject to any other legal or equitable remedy, in connection with any such decision on the part of the Board. The Board shall have the

right to delegate its rights and obligations under this Section 2(a) of Article Two of this Declaration to an Architectural Review Board composed of individuals selected by the Board.

(b) Subject to the provisions of Section 2(a) of this Article Two, and subject to the Rules and Regulations, each Owner shall have the right to modify, alter, repair, decorate, redecorate or improve the interior of such Owner's Townhouse, provided that such action does not impair the structural integrity, weaken the support, or otherwise adversely affect any other Townhouse or any Common Area, and provided that all such action is performed in a good and workmanlike manner and in a manner which causes minimum inconvenience to other Owners and is performed in such a manner that does not constitute a nuisance to any other Owner; provided, however, that the Board may require any Owner to remove or eliminate any object situated within such Owner's Townhouse that is visible from any Common Areas or from any Townhouse and which, in the Board's reasonable judgment, detracts from the visual attractiveness of the Project.

(c) Without the prior written consent of the Board and subject to the provisions of Article Eight hereof, no Owner shall have any right to place any sign in or on any Lot or elsewhere in the Project. The Board shall have the right to remove any signs so placed without permission. Notwithstanding anything to the contrary, Declarant shall have the right to erect signs advertising the sale of Unimproved Lots and/or Townhouses without the consent of the Board, so long as such signs are reasonable in size and content.

(d) Each Owner shall maintain the Enclosed Portion of such Owner's Lot in good order and repair at all times, and each Owner shall be responsible for all landscaping within the Enclosed Portion of such Owner's Lot. Each Owner of an Unimproved Lot shall be responsible for its maintenance. Without the prior written consent of the Board, no Owner shall have any right to modify, alter, decorate, redecorate or improve the Outer Portion of any Lot or the Exterior of any Townhouse which is visible from the Outer Portion of any Lot, except for the growing, maintaining and exhibiting of greenery and plants. Provided, however, that the Board may require that any such greenery or plants be removed if, in the Board's reasonable judgment, such greenery or plant detracts from the visual attractiveness of the Project. Provided further, that the Board shall have the right to provide for and maintain any landscaping and greenery within the Enclosed Portion at the cost and expense of the Owner.

(e) The Association shall maintain the Common Areas and the Outer Portion of all of the Lots. In addition, all landscaping of the Common Areas and the Outer Portions of all of the Lots shall be the responsibility of the Association. No Owner shall be entitled to perform any landscaping, maintenance or repairs on any portion of the Common Areas or on the Outer Portion of any Lot. Provided, however, that since all sprinkler controls for the Outer Portion are located within the nearest Townhouse garage, each Owner shall be responsible to set and maintain a reasonable period of watering of such area. In so doing, each Owner may request the assistance of the Association. If an Owner shall fail to provide adequate sprinkler times, the Association may water by hand and the expense thereof shall be a charge to such Townhouse, which charge shall be secured by the lien for assessments set forth below.

Section 3. Easements and Title to and Operation of the Common Areas.

(a) The Project shall be subject to an overlap or encroachment easement in favor of all of the Owners for minor overlaps or encroachments created by construction, settling, rising or other movement of any improvements to the Lots and the Common Areas, limited, however, to any actual overlap or encroachment.

(b) Each Owner hereby grants to each of the other Owners a non-cancelable right of access to each such Owner's Lot and Townhouse for the purpose of maintenance and repair of the Interior of each such Owner's Townhouse, subject to the Rules and Regulations adopted, from time to time, by the Board.

(c) Each Owner is hereby granted the right and benefit of the use and enjoyment of the Common Areas, subject to the Rules and Regulations adopted, from time to time, by the Board and to the Board's right to control the use and operation of the Common Areas pursuant to Section 3(d) of this Article Two.

(d) Each of the Townhouses will be constructed so as to have at least one (1) wall abutting a side property line designated as the "zero setback line" for the Lot upon which such Townhouse is erected. (i) The Lot adjoining a "zero setback line" (other than the Interior of the Townhouse on such Lot) and (ii) the Common Area adjoining any Lot with improvements situated on a "zero setback line" shall be subject to a three (3) foot access easement for the construction, repair and maintenance of improvements located on the "zero setback line" of such adjacent Lot. The Owner of such adjacent Lot must replace any fencing, landscaping or other items located within the easement area that he may disturb during such construction, repair or maintenance. Additionally, this easement, when used, must be left clean and unobstructed unless the easement is actively being utilized and any items removed must be replaced. Except in the event of an emergency, the "zero setback line" Owner must notify the Owner of any Lot affected by this easement of his intent to do any construction or maintenance at least twenty-four (24) hours before any work is started, with the hours that such access easement may be utilized being restricted to between the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, and 9:00 a.m. to 6:00 p.m. on Saturdays. In the event of an emergency, no such notice is necessary and maintenance can be performed at any necessary time. Eaves shall be permitted to overhang a "zero setback line" by not more than twenty-four inches (24") and exposed beams at gables shall be permitted to overhang a "zero setback line" by not more than thirty inches (30"); provided, however, that no plants or any other objects shall be hung from any such eaves or exposed beams.

(e) The Board shall have the right to control the use and operation of the Common Areas. Such right includes, without limitation, the following:

(1) The right to charge reasonable admission, rental and other fees for the use of any facility comprising a portion of the Common Areas.

(2) The right to charge a particular group or class of persons reasonable fees for the use of facilities included within the Common Areas without charging or imposing such fees upon all persons permitted to use such facilities.

(3) The right to permit non-Owners to use the Common Areas on terms acceptable to the Board.

(4) The right to restrict the rights of an Owner violating any of the provisions of this Declaration to use the Common Areas in accordance with the provisions of Section 6 of Article Eleven hereof.

(5) The right to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility.

(f) The Association is hereby granted the non-cancelable right of access in and to the Project for the purposes of landscaping, maintaining and repairing the Common Areas and the Outer Portions in accordance with the terms and provisions of this Declaration, and for performing any other action required or permitted under this Declaration.

(g) The Association is hereby granted the non-cancelable right of access in and to the Project for the purpose of entering upon and into any Outer Portion to water any landscaped area not adequately sprinkled by an Owner.

(h) Within a reasonable time after the sale of the first Lot from Declarant to an owner other than Declarant, Declarant shall convey fee simple title to the Common Areas to the Association in trust for the benefit of the Owners. Each Owner of a Lot shall, as a result of such ownership, own an undivided beneficial interest in and to the Common Areas equal to the Fractional Interest associated with each such Owner's Lot. Each undivided beneficial interest in and to the Common Areas associated with each Lot shall be appurtenant to each such Lot, and upon the conveyance of any such Lot to a purchaser or other grantee, the undivided beneficial interest in and to the Common Areas appurtenant to such Lot shall be automatically conveyed along with such Lot to such purchaser or other grantee. The ownership of each Lot and the ownership of the undivided beneficial interest in and to the Common Areas appurtenant to each such Lot shall never be separated and shall always be vested in the Owner of such Lot.

(i) An easement is hereby granted to the Association in and to the Project for the purposes of maintaining utility services (including without limitation electricity, gas, water, sanitary sewer, storm sewer, telephone and television) to the Lots and the Common Areas, which easement shall be located in the easements reflected in the subdivision plat. The Association shall have the right to assign, from time to time, such easement on a non-exclusive basis to Owners and others for the purposes of providing and maintaining utility services to each Owner's Lot.

### ARTICLE THREE

#### MANAGEMENT AND OPERATION OF PROJECT

Section 1. Management by Association. The affairs of the Project shall be administered by the Association. The Association shall have the power and obligation to provide for the maintenance, landscaping, repair, replacement, administration, insuring and operation of those portions of the Project as herein provided for and as provided for in the Bylaws and in the Rules and Regulations. Without limiting the generality of the foregoing, the Association, acting through the Board, shall be entitled to enter into such contracts and agreements concerning the Project as the Board deems reasonably necessary or appropriate to maintain and operate the Project as a viable residential townhouse development, including, without limitation, the right to grant utility and other easements for uses the Board shall deem appropriate and the right to enter into agreements with adjoining or nearby land owners or associations or entities representing such land owners on matters of

maintenance, trash pick-up, repair, administration, security, traffic, operation of recreational facilities, street cleaning or other matters of mutual interest.

**Section 2. Membership in Association.** Each Owner, including Declarant, during the period of time in which Owner owns a Lot or Lots, shall be a Member in the Association so long as he shall be an Owner, and such membership shall automatically terminate when such ownership ceases. Upon the transfer of ownership of a Lot, howsoever achieved, including, without limitation, by foreclosure of a lien upon a Lot, the new Owner thereof shall, concurrently with such transfer, become a Member in the Association. If there are one (1) or more Owners of a Lot, then such Owners shall designate one (1) of their number as the Member in the Association, which designation shall be made in writing to the Board. After an Owner is so designated, the Board shall have the right to rely on such designation until a written notice revoking such appointment is received by the Board. Any such Owners may designate the Member from among themselves in any manner they deem fit and in the event that such Owners are unable to agree upon one (1) of their number to be designated as the Member to the Association, then none of such Owners shall have any vote, fractional or otherwise, in the Association.

**Section 3. Initial Board of Directors; Election of First Board.** The initial Board of Directors of the Association shall be T. S. Terry, Billy Tom Griffin and Kurt Lienweber. Such Board shall serve until the "First Board of Directors" (sometimes hereinafter so referred to) is elected by the Members. The election of the first Board of Directors shall be held in accordance with the Bylaws upon the earlier to occur of (i) the date selected by Declarant, (ii) December 31, 1993, or (iii) within sixty (60) days after Declarant has conveyed, by deeds duly executed and recorded, forty (40) of the Lots (the earlier of such dates is sometimes herein referred to as the "Election Date"). Thereafter, elections shall be held as set forth in the Bylaws.

**Section 4. Meetings of the Board of Directors.** The Board of Directors shall meet as set forth in the Bylaws.

**Section 5. Voting of Members.** Each Member, including Declarant, shall have a vote or votes in the Association according to the Fractional Interest of each Member. In the event the voting right of any Member has been restricted or suspended pursuant to the provisions of Section 6(d) of Article Eleven of this Declaration, then such Member shall not be entitled to vote at any meeting so designated by the Board, and such Member shall not be included in computing the total number of votes at such meeting for the purpose of determining whether a particular percentage of votes have been cast at such meeting.

**Section 6. Disputes.** In addition to its other powers conferred by law or hereunder, the Board shall be empowered to create procedures for resolving disputes between Owners and the Board or the Association, including appointment of committees to consider and recommend resolutions of or resolve any such disputes.

**Section 7. Professional Management.** The Board may retain, hire, employ or contract with such professional management as the Board deems appropriate to perform the day-to-day functions of the Association and to provide for the maintenance, repair, landscaping, insuring, administration and operation of the Project as provided for herein and as provided for in the Bylaws. Any contract for management hereunder shall not exceed three (3) years in term and must be subject to termination, without cause and without payment of a termination fee, on thirty (30) days' written notice.

Section 8. Board Actions in Good Faith. Any action or inaction by the Board made or taken in good faith shall not subject the Board to any liability to the Association, its members, or any other party.

#### ARTICLE FOUR

##### COMMON EXPENSE CHARGE AND COMMON FUND

Section 1. Payment of Expenses. Each Owner of an Improved Lot shall contribute to the Common Fund a portion of the annual Common Expense Charge for the expenses (including ad valorem taxes) to be incurred in connection with administering the Project Affairs, which portion shall be in proportion to such Owner's Fractional Interest. Each Owner of an Unimproved Lot shall contribute to the Common Fund a portion of the annual Common Expense Charge equal to a sum assessed by the Board which shall approximate the actual portion of the Common Expenses incurred in connection with an Unimproved Lot. The Common Expense Charge shall be assessed in accordance with the provisions hereinafter set forth. No Owner is or shall be exempt from such obligation to so contribute by waiver of use of the Common Areas or any portion thereof, or because of any restriction of such uses in accordance herewith or with the Rules and Regulations.

Section 2. Payment of Common Expenses Prior to the Election Date. Notwithstanding anything to the contrary contained herein, the Declarant shall pay to the Association, until the Election Date, in lieu of any Common Expense Charge or Special Assessment with respect to all Lots which the Declarant continues to own, the amount, if any, by which the Actual Operating Expenses (as hereinafter defined) incurred for any fiscal year or part thereof of the Association exceed the aggregate of the Common Expense Charges payable during such period by other Owners, less any portion thereof that is deposited in the Replacement Reserve Fund during such period. For purposes of this Article Four, Section 2, the term "Actual Operating Expenses" shall mean those expenses reasonably necessary for the normal maintenance and operation of the Project and the Project Affairs, but shall not include capital expenditures or any amounts paid into the Replacement Reserve Fund.

Section 3. Budgets; Establishment of Common Expense Charge and Replacement Reserve Fund. Upon the recordation of this Declaration, the initial Board shall meet and establish a budget for the Project Affairs for that portion of the calendar year then remaining, which budget shall set forth the Board's reasonable estimate of all expenses which the Association will incur in such operation and maintenance for the remainder of such year. Such budget, and all successive budgets, shall include a reasonable allowance for contingencies and any operating deficits for prior years and shall establish a reasonable reserve fund, herein called the Replacement Reserve Fund, for maintenance, repairs and replacements to the Common Areas and the Outer Portions of the Lots. Such initial budget, and those adopted thereafter, may also provide for ad valorem tax expenses of the Common Areas and, if the taxing authorities having jurisdiction thereover have not then separately assessed and valued individual Lots, such budgets may also provide for ad valorem tax expenses for individual Lots. Thereafter, annually, in the last calendar quarter of each year, the Board shall meet and establish such a budget for the next succeeding calendar year. Copies of each such budget shall be available at the Project for inspection by the Owners. After each such budget is adopted by the Board, the Board shall determine (i) the Common Expense Charge for the calendar year in question for each Improved Lot or Unimproved Lot, and (ii) the portion thereof allocable to each Owner, and (aa) each Owner of an Improved Lot shall be obligated to pay monthly, in advance, one-twelfth (1/12th) of the portion of the Common Expense Charge so allocated to such Owner, and (bb) each



Owner of an Unimproved Lot shall be obligated to pay annually, in advance, within thirty (30) days of the date of the annual meeting. The Common Expense Charge shall be allocated among those Owners obligated by this Declaration to pay same according and in proportion to the respective Fractional Interests of such Owners as determined at the first (1st) of each month and may be adjusted in the event construction shall be commenced on an Unimproved Lot. Any budget adopted by the Board shall be effective for the applicable year, unless at a duly called meeting such budget is disapproved by at least two-thirds (2/3rds) of the votes in the Association entitled to vote thereon. In the event any such budget is so disapproved, the budget for the immediately preceding calendar year shall apply to the year in which the disapproved budget would have otherwise been applicable.

**Section 4. Special Assessments.** If the Board, at any time or from time to time, determines that the Common Expense Charge assessed for any period is insufficient to provide for the administration of the Project Affairs, then the Board shall have the authority to levy such special assessments as it shall deem necessary to provide for such continued maintenance and operation. Without limiting the generality of the foregoing, such special assessment may be assessed because of casualty or other loss to any part of the Common Areas and the Outer Portions of the Lots. No special assessment shall be effective until the same is approved by Members holding at least a majority of the votes in the Association in writing or by a majority at any regular or special meeting of the Members. Any such special assessment shall be payable (and the payment thereof may be enforced) in the manner herein specified for the payment of the Common Expense Charge.

**Section 5. Payment of Common Expense Charge; Enforcement.** One-twelfth (1/12th) of the portion of the Common Expense Charge assessed against each Owner of an Improved Lot shall be due and payable, in advance, on the first (1st) day of each calendar month during the year for which the Common Expense Charge in question has been assessed. The Common Expense Charge assessed against each Owner of an Unimproved Lot shall be due and payable, in advance, within thirty (30) days of the annual meeting. Any such amount not paid and received within ten (10) days of the due date for any such payment shall be deemed delinquent, a \$25.00 processing fee for late payments shall be charged and shall be immediately due and payable, and, without notice, the delinquent amount shall bear interest at the rate of ten percent (10%) per annum from the date originally due until paid. If any such amount shall remain unpaid for fifteen (15) days, then at the Board's election, the Common Expense Charge due from the delinquent Owner for the next twelve (12) months shall be accelerated, shall become at once due and payable, and shall bear interest at the rate of ten percent (10%) per annum. For purposes of the preceding sentence, if the actual Common Expense Charge for the next twelve (12) months is not then known, it shall be deemed that the Common Expense Charge for the next twelve (12) months shall be the same per month as the then applicable monthly charge for an Improved Lot and for the prior twelve (12) months for an Unimproved Lot. If, after the Common Expense Charge for the next twelve (12) months has been accelerated by the Board, satisfactory payments of the Common Expense Charge and accrued interest are paid, then the Board may allow such charge to again be paid on a monthly basis or as otherwise provided herein. In order to secure payment of the Common Expense Charge, the vendor's lien and superior title to each Lot shall be and is hereby reserved to the Association, which lien may be foreclosed either through appropriate judicial proceedings by the Association or by a public sale without judicial proceedings. Each Owner, by accepting conveyance of a lot, (i) irrevocably grants to the Association a power of sale as provided in Section 51.002 of the Texas Property Code so that the lien securing payment of the unpaid sums required to be paid by

this Declaration may be foreclosed at public sale without judicial proceedings in the manner prescribed by law in the State of Texas and (ii) agrees that each such Owner shall be personally liable for the payment of all such unpaid sums. The vendor's lien and superior title herein reserved shall be subordinate in all respects to any Mortgage, and any Mortgagee acquiring title to a Lot, whether pursuant to the remedies provided for in its Mortgage or procedures in lieu thereof, shall not be liable for the unpaid portion of the Common Expense Charge attributable to the Townhouse in question that arose prior to such acquisition. In addition to foreclosing the lien hereby retained, in the event of nonpayment by any Owner of such Owner's portion of the Common Expense Charge, the Board may, upon ten (10) days' prior written notice thereof to such nonpaying Owner, in addition to all other rights and remedies available at law, in equity, or otherwise, pursue any or all of the remedies granted the Association in Article Eleven, Section 6 hereof.

Section 6. Common Fund. The Common Expense Charges collected by the Board shall be paid into the Common Fund to be held for the use and benefit, directly or indirectly, of the Project. Such Common Fund may be expended by the Board for the purposes set forth hereinabove and generally to promote the health, benefit and welfare of the Project and the Owners.

Section 7. No Encumbrance. The Association shall have the right to borrow money for the purpose of maintaining or improving the Common Areas, provided that the Association shall not have the power to grant a lien or encumbrance against the Common Areas to secure the obligation to repay any such money.

#### ARTICLE FIVE

#### INSURANCE

Section 1. General Provisions. The Board shall obtain insurance (the premiums for which shall be paid from the Common Fund) for the Project as follows (such insurance shall be in amounts designated by the Board unless any such amount is specified in this Declaration):

(a) Insurance on the Project against loss or damage by fire or by any and all other risks insured by standard extended coverage policies in use in the State of Texas, with such endorsements as the Board deems advisable, in amounts sufficient to prevent the Association from being a co-insurer within the terms of such policies, but in any event in an amount not less than the full insurable replacement cost thereof. The full insurable replacement cost of the Project shall be determined annually by the Board, who may obtain an appraisal in making such determination, the cost of which shall be paid from the Common Fund.

(b) Comprehensive general liability insurance against claims for personal injury or death (minimum coverage of \$300,000.00) and property damage (minimum coverage of \$100,000.00) suffered by the public or any owner, the family, agent, employee or invitee of any Owner, occurring in, on or about the Project and at least \$1,000,000.00 in "umbrella" coverage. Any policy obtained pursuant to this subsection (b) shall contain a cross-liability endorsement whereby the rights of the named insured shall not prejudice his, her or their action or actions against another named insured and shall contain a "severability of interest" type of endorsement precluding the insurer from denying a claim of an Owner or the Association because of the negligent acts of other Owners or the Association.

(c) Director's and officer's liability insurance in an amount not less than \$1,000,000.00 for the Directors and officers of the Association against any liability

asserted against any such party or incurred by such party in such capacity or arising out of such party's status as a Director or officer.

(d) Such other insurance in such reasonable amounts as the Board shall deem desirable.

Section 2. Policies. All insurance provided for in this Article shall be effected with responsible insurers authorized to do business in the State of Texas. All such policies of insurance shall name as insured the Association, as trustee for each Owner in accordance with and in proportion to such Owner's Fractional Interest, and all Mortgagees, all as their respective interest may appear. All such policies shall be without contribution with regard to any other policies of insurance carried individually by an Owner and shall provide that such policy shall not be terminated for any cause without at least thirty (30) days prior written notice to the Association and Mortgagees.

Section 3. Future Laws and Subrogation. In the event that an insurance policy specifically designed to meet the insurance needs of townhouse developments hereafter becomes available in Texas, the Board shall be authorized to obtain such a policy, provided that the coverage afforded thereby at least equals the coverage provided by the policies enumerated in this Article Five. Each Owner and the Association agree to and hereby waive all rights of subrogation against the Declarant that they pay have now or in the future under or with respect to any insurance policies.

Section 4. Individual Insurance. Each Owner shall be responsible for insuring the contents and furnishings of his Townhouse and for insuring such Owner's improvements, alterations, additions and fixtures not covered by the master policy to be purchased by the Board. All policies of casualty insurance carried by each Owner shall be without contribution with respect to the policies of casualty insurance obtained by the Board for the benefit of all of the Owners as above provided. Each Owner, at his own cost and expense, should carry an individual policy of liability insurance insuring against the liability of such Owner, inasmuch as liability insurance policies to be carried by the Association may, as to each Owner, be only with respect to his liability arising out of the ownership, maintenance or repair of that portion of the Project which is not reserved for his exclusive use or occupancy.

## ARTICLE SIX

### FIRE OR CASUALTY; REBUILDING

#### Section 1. Rebuilding.

(a) In the event of a fire or other casualty causing damage or destruction to a Townhouse, all proceeds of insurance policies carried by the Association with respect to such fire or casualty shall be paid and held in accordance with the provisions of Section 2 of this Article Six. The Owner of such damaged or destroyed Townhouse shall thereupon contract to repair or reconstruct the damaged portion of such Townhouse and shall cause such Townhouse to be fully repaired or reconstructed in accordance with the original plans and specifications therefor, and the funds held pursuant to Section 2 of this Article Six shall be used for this purpose and disbursed in accordance with the terms of such Section 2.

(b) In the event that such insurance proceeds are insufficient to provide for such repair, restoration or rebuilding, those costs in excess of the insurance proceeds shall be paid by the Association.

Section 2. Payment of Insurance Proceeds. All insurance proceeds and other funds received by the Association pursuant to this Declaration as a result of fire or other casualty loss causing damage or destruction to a Townhouse shall be applied toward the cost of repair, restoration or rebuilding of the damaged Townhouse in accordance with the contract or contracts entered into by the Owner of such Townhouse pursuant to Section 1 of this Article Six. Any funds remaining after the repair, restoration or rebuilding of such damaged Townhouse shall be retained by the Board as part of the Common Fund.

Section 3. Repair of Townhouses. Each Owner shall be responsible for the reconstruction, repair and replacement and of all personal and other property in or a part of his Townhouse.

Section 4. Indemnity of Association. Subject to the provisions of Section 3 of Article Five hereof, each Owner shall be responsible for any costs not otherwise covered by insurance carried by the Association and caused by such Owner's negligence or misuse or by the negligence or misuse (i) of his family, visitors, guests, invitees, agents or employees or (ii) of any other resident or occupier of his Townhouse, and shall to the extent not covered by insurance proceeds collected by the Association, indemnify the Association and all other Owner against any such costs.

#### ARTICLE SEVEN

##### LEASING OF TOWNHOUSES

The Board may, from time to time, promulgate rules covering and governing the leasing and renting of Townhouses. No such rule shall discriminate against any prospective lessee or tenant on the basis of sex, religion, race, color or creed or on any other basis that is impermissible under any applicable law.

#### ARTICLE EIGHT

##### DECLARANT'S USE OF LOTS

Section 1. Declarant Lots. Declarant hereby reserves unto itself and its successors and assigns the exclusive right to use as a sales office and as model townhouses the recreational facilities constituting a portion of the Common Areas and any of the Townhouses owned, from time to time, by Declarant (all such Townhouses herein being collectively called the "Declarant Townhouses"). It is contemplated that same will be used by Declarant and its successors and assigns as a sales office and model townhouses in conjunction with the development of the Land. Further, Declarant reserves the right to use the Unimproved Lots in a manner not inconsistent with law applicable to the use of similar property. The uses of all or any of the Declarant Townhouses and Unimproved Lots identified in this Section shall be permitted notwithstanding any other provision of this Declaration.

Section 2. Signs. Declarant hereby reserves unto itself and its successors and assigns the right to maintain on the Land one (1) or more signs in connection with the development of and sale of parts or all of the Land and the Townhouses.

#### ARTICLE NINE

##### AMENDMENT TO DECLARATION AND DURATION OF RESTRICTIONS

Section 1. Amendment. Except as otherwise provided by law, after the Election Date, the provisions hereof may be amended by an instrument in writing signed by Members having not less than two-thirds (2/3rds) of the votes in the Association entitled to vote thereupon, but no such amendment shall be effective until a

written notice thereof is duly recorded in the Office of the County Clerk of Bexar County, Texas. Declarant reserves the right to amend the provisions hereof at any time and from time to time prior to the Election Date. The Bylaws of the Association may be amended as therein set forth.

Section 2. Duration. These Restrictions shall remain in full force and effect until January 1, 2020, and shall be automatically extended for successive ten (10) year periods thereafter; provided, however, these Restrictions may be terminated on January 1, 2020, or on the commencement of any successive ten (10) year period by the filing for record in the Office of the County Clerk of Bexar County, Texas, within a period of twelve (12) months prior to such effective date of termination, of a written statement of the election to terminate these Restrictions executed and acknowledged by Members having not less than two-thirds (2/3rds) of the votes in the Association entitled to vote thereupon. These Restrictions may be terminated at any time by the filing for record in the Office of the County Clerk of Bexar County, Texas, of a written statement of termination executed and acknowledged by Members having not less than ninety percent (90%) of the votes in the Association entitled to vote thereupon.

#### ARTICLE TEN

##### PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of a Unit upon the Land and placed on the dividing line between two (2) Lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. No Owner shall cut through or make any penetration through a party wall for any purpose whatsoever without obtaining the prior written consent of both the Board and the adjoining Owner or Owners whose Townhouse or Townhouses will be affected by such penetration.

Section 2. Sharing of Repair Maintenance. The cost of the reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of such wall in proportion to such use.

Section 3. Right to Contribution Runs with the Land. The right of any Owner to contribution from any Owner under this Article shall be appurtenant to the Land and shall pass to such Owner's successors in title.

#### ARTICLE ELEVEN

##### MISCELLANEOUS

Section 1. Severability. In the event of the invalidity or partial invalidity or enforceability of a provision or a portion of this Declaration, the remainder Declaration shall remain in full force and effect.

Section 2. Rules and Regulations. The Rules and Regulations with respect to the day-to-day maintenance, operation and enjoyment of the Project may be amended from time to time by the Board. The Rules and Regulations are of equal dignity with, and shall be enforceable in the same manner as, the provisions of this Declaration, but in the event of a conflict, this Declaration shall control. Each Owner, by accepting conveyance of a Townhouse, agrees to comply with and abide by the Rules and Regulations, as the same may be amended from time to time.

Section 3. Mortgage Matters. Any Mortgagee, upon reasonable notice, shall be entitled to examine the books and records of the Association. The Board shall deliver to any Mortgagee, upon request, a certificate in writing stating whether the Common Expense Charge or special assessment relating to the lot covered by such Mortgagee's Mortgage has been paid. A reasonable charge may be made by the Board for the issuance of any such certificate. Such certificate shall be conclusive evidence of payment of any Common Expense Charge or special assessment therein stated to have been paid. Any Mortgagee, upon reasonable notice, shall be entitled to written notification of any default by an Owner hereunder of any obligation not cured within sixty (60) days.

Section 4. Delay in Enforcement. No delay in enforcing the provisions of this Declaration as to any breach or violation thereof shall impair, damage or waive the right of any party entitled to enforce the same to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time or times.

Section 5. Limitation of Liability. Declarant, as well as its agents, employees, officers and directors, shall not be liable to any Owner or lessee of the Land or any portion thereof or to any other party for any loss, claim or demand in connection with a breach of any provision of this Declaration by any party other than Declarant or in connection with the enforcement or failure to enforce any provision of this Declaration.

Section 6. Remedies. In the event any one (1) or more persons, firms, corporations or other entities shall violate or attempt to violate any of the provisions of this Declaration, Declarant, the Association, and each purchaser, grantee, owner or lessee of the Land, or any portion thereof, may institute and prosecute any proceeding at law or in equity (i) to abate, prevent or enjoin any such violation or attempted violation or (ii) to recover monetary damages caused by such violation or attempted violation. Additionally, but not by way of limitation, upon the violation of any of the provisions of this Declaration by any Owner, the Association, in addition to all other rights and remedies available at law, in equity, or otherwise to the Association, acting through the Board, shall have the right to pursue any or all of the following remedies:

(a) The Board may restrict the right of such Owner to use the Common Areas in such manner as the Board deems fit or appropriate.

(b) The Board may terminate the right of such Owner to use any part of the Common Areas for the purpose of furnishing utilities to such Owner's Townhouse.

(c) The Board may upon ten (10) days' written notice purchase from such Owner (and for this purpose, each Owner hereby grants to the Association an option to so purchase) such Owner's Lot at a purchase price equal to the price at which such Owner originally purchased the Lot, less the reasonable expenses incurred by the Association in purchasing the Lot, less the sum of all amounts such Owner owes the Association, and less the balance of any debt secured by any Mortgage encumbering such Owner's Lot (said option being expressly subject to any Mortgage on such Owner's Lot).

(d) The Board may suspend or restrict the right of such Owner to vote in any regular or special meeting of the Members.

(e) The Board may assess a penalty against such Owner up to a maximum amount equal to the Maximum Penalty Amount (as hereinafter defined) for each day that the Owner is in

violation of any of the provisions of this Declaration. The payment by the Owner of any such penalty may be enforced in the manner specified in Section 5 of Article Four of this Declaration relating to the payment of the Common Expense Charge and shall be secured by the vendor's lien and superior title reserved to the Association in such Section 5 of Article Four. As used herein, the term "Maximum Penalty Amount" shall mean an amount of money equal to \$100.00 multiplied by a fraction, the numerator of which shall be the Price Index most recently published prior to the date such violation of the provisions of this Declaration began, and the denominator of which shall be the Price Index as of July 1, 1986.

(f) In the event such violation consists of a failure to maintain the Enclosed Portion of such Owner's Lot in accordance with the provisions of this Declaration, and such violation remains uncured for thirty (30) days after such Owner's receipt of written notice thereof from the Association, then the Association may enter upon such Enclosed Portion and provide or perform such maintenance, and the costs and expenses incurred thereby shall be assessed against such Owner and such Lot and enforced in accordance with the provisions of Section 5 of Article Four of this Declaration relating to the payment of the Common Expense Charge, shall be secured by the vendor's lien and superior title reserved to the Association, and shall bear interest at the rate of ten percent (10%) per annum.

Section 8. Enforceability. The Restrictions adopted and established for the Project by this Declaration are imposed upon and made applicable to the Project and shall run with the Project and shall be binding upon and inure to the benefit of and be enforceable by Declarant, the Association, each purchaser, grantee, owner and lessee of the Project or any portion thereof, and the respective heirs, legal representatives, successors and assigns of the Declarant, the Association, and each such purchaser, grantee, owner and lessee.

Section 9. Stone Oak Master Plan. The Project lies within the area covered by the Stone Oak Master Plan (the "Stone Oak Master Plan"), recorded in Volume 2978, Pages 930-1024 of the Official Public Records of Real Property of Bexar County, Texas, as amended by First Amendment to Stone Oak Master Plan, recorded in Volume 3017, Pages 875-892 of the Official Public Records of Real Property of Bexar County, Texas. Accordingly, the Project, and each Owner and Lot, shall be subject to the provisions of the Stone Oak Master Plan, to the extent that any such provisions are applicable to and enforceable against the Project or any such Owner or Lot. Any assessments made pursuant to the Stone Oak Master Plan with respect to the Project may be included by the Board in its establishment of the budget pursuant to Section 3 of

Article Four hereof, with the effect that such assessment pursuant to the Stone Oak Master Plan shall be borne by each Owner according to such Owner's fractional interest.

WITNESS THE EXECUTION HEREOF as of the 3<sup>rd</sup> day of October, 1989.

FIRST STATE FEDERAL SAVINGS ASSOCIATION, successor-in-interest to FIRST STATE SAVINGS ASSOCIATION

BY: [Signature]  
Type of \_\_\_\_\_  
Print Name: [Name]  
Title: [Title]

THE STATE OF TEXAS §  
COUNTY OF BEXAR §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 1989, by \_\_\_\_\_ of FIRST STATE FEDERAL SAVINGS ASSOCIATION, successor-in-interest to FIRST STATE SAVINGS ASSOCIATION, in the capacity therein stated on behalf of said association.

[Signature]  
Notary Public, State of Texas

[Signature]  
Type or Print Name

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



Service Title  
6601 Blanco  
SA. 7x.  
46216



NAME: THE SEVENTH AT SONTERRA, LTD.

EXHIBIT "A"

7.372 Acres of land out of the following: L.C. Grothaus Survey No. 10, Abstract No. 931, C.B. 4940, F. De La Garza Survey No. 5, Abstract No. 349, C.B. 4944, Rudolph Froebel Survey No. 382, Abstract No. 926, County Block 4942; and also being out of a 1046.146 acre tract recorded in Volume 6506, Pages 811-814 of the Deed and Plat Records of Bexar County, Texas; and being more particularly described as follows:

BEGINNING at an iron pin found on the northeast right-of-way line of Blanco Road (F.M. 2696) and at the northwest corner of a 100 foot City Public Service Board electric easement for the southwest corner of this tract;

THENCE N.28°12'36"W., coincident with the northeast right-of-way line of said Blanco Road, a distance of 415.09 feet to a monument found for a point of curvature;

THENCE curving to the left with a radius bearing of S.61°49'19"W., a radius distance of 2082.41 feet, a central angle of 02°22'59"W., a tangent distance of 43.31 feet and curve length of 86.62 feet to an iron pin set for the northwest corner of this tract;

THENCE N.64°21'42"E., a distance of 130.29 feet to an iron pin found for an angle point;

THENCE N.65°27'44"E., a distance of 270.11 feet to an iron pin set for the northeast corner of this tract;

THENCE S.57°48'01"E., a distance of 341.86 feet to an iron pin set for an angle point;

THENCE S.45°00'00"E., a distance of 106.07 feet to an iron pin set for an angle point;

THENCE S.36°34'23"E., a distance of 193.00 feet to an iron pin set for an angle point;

THENCE S.34°16'49"E., a distance of 88.49 feet to an iron pin set on the north line of said electric easement for the southeast corner of this tract;

THENCE S.79°02'18"W., coincident with the north line of said electric easement, a distance of 673.10 feet to the point of beginning, and containing 7.372 acres of land in Bexar County, Texas.

Any instrument which purports to be the record of any of its detached and primary interests of title in real estate and manufactured title Federal Law, THE STATE OF TEXAS COUNTY OF BEXAR I hereby certify that the instrument was FILED in the County Clerk's Office on the 11th day of May 1987 at 11:00 AM and was recorded in the Official Public Index of said County of Bexar, Texas on

MAY 13 1987



*Robert A. Green*  
COUNTY CLERK BEXAR COUNTY TEXAS

1987 MAY 11 PM 5 11  
BEXAR COUNTY CLERK'S OFFICE  
COUNTY CLERK'S OFFICE  
BEXAR COUNTY TEXAS

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Any provision herein which restricts the sale, rental, or lease of the described REAL PROPERTY  
because of Race, Color, Religion, Sex, Marital Status, or National Origin, is hereby  
and unenforceable under FEDERAL LAW, 42 U.S.C. 3605  
THE STATE OF TEXAS COUNTY OF DEKALB  
I hereby certify that this instrument was FILED in File Number Sequence on the  
date and at the time stamped herein by me, and was duly RECORDED, in the  
Official Public Records of Real Property of DeKalb County, Texas on

NOV 9 1989



*Robert D. Green*  
COUNTY CLERK DEKALB COUNTY, TEXAS

RECORDED  
NOV 9 1989  
DEKALB COUNTY, TEXAS

*JK*

NOV 9 1989