

**DECLARATION OF PROTECTIVE RESTRICTIONS, COVENANTS,  
RESERVATIONS, AND EASEMENTS**

**SDC BADGER RANCH ADDITION, PHASE I  
to the  
CITY OF WOODWAY, McLENNAN COUNTY, TEXAS**

THE STATE OF TEXAS            |  
  |            **KNOW ALL MEN BY THESE PRESENTS:**  
COUNTY OF McLENNAN        |

THAT SDC BADGER RANCH, L.P. (the "Declarant"), being the owner of SDC Badger Ranch Addition, Phase I, to the City of Woodway, McLennan County, Texas, according to the plat recorded in Clerk's File No. \_\_\_\_\_, Official Public Records of Real Property of McLennan County, Texas, (the "Subdivision") including the following residential lots (the "Lots"):

- Lots 1 through 25, Block A, Lots 1 through 11, Block B, and Lots 1 through 11, Block D, ("Cottage Lots")
- Lots 12 through 15 and Lots 23 through 30, Block B, Lots 1 through 13, Block C, Lots 12 through 18, Block D, and Lots 1 through 10, Block E ("Executive Lots") and
- Lots 16 through 22, Block B, ("Estate Lots")

does hereby declare such property, save and except Lot 1, Block F, Lot 1, Block G, and Lot 1, Block J, ("Commercial Lots") to be bound by the hereinafter set out building restrictions, reservations, covenants, and easements (collectively, the "Covenants") and declares that all Lots in the Subdivision shall be bound by the Covenants and that all purchasers and subsequent owners of any Lot (a "Lot") or Lots therein will be bound by, and will obligated to comply with, the Covenants. References herein to "Lot" or "Lots" shall not include any of the Commercial Lots. The Covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty (20) years from the date the Covenants are filed for record in the Official Public Records of Real Property of McLennan County, Texas, after which time the Covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the owners of a majority of the Lots in the Subdivision agreeing to abolish or to change the Covenants in whole or in part has been filed for record in the Official Public Records of Real Property of McLennan County, Texas. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any of the Covenants either to restrain violation or to recover damages or both. Invalidation of any one of the Covenants by judgment or court order or statute shall in no way affect any of the

other Covenants, which shall remain in full force and effect. Notwithstanding the foregoing, the Covenants shall not apply to common areas, if any, shown on the plat of the Subdivision except as expressly provided herein.

The Covenants are in addition to a Propane Utilization Restrictive Covenant dated \_\_\_\_\_, 2004, executed by Declarant and HBH Systems, LLC, ("HBH") and filed or to be filed in the Official Public Records of Real Property of McLennan County, Texas. Notwithstanding anything contained herein to the contrary, neither HBH's Tank Site, nor any owner thereof, shall be subject to any owner association dues, fees, charges or other assessments of any recorded restrictive covenants for HBH's Service Area, nor be subject to any use, construction or other improvement limitation, restriction or requirement contained therein which would have a substantially adverse affect on HBH's rights.

The Covenants are as follows, to-wit:

1. Land Use: All Lots shall be used for single-family residential purposes only. Single family residence does not include mobile homes, modular homes, manufactured homes, prefabricated homes, or motor homes. No professional, commercial, or business activity, other than (a) insignificant activities which do not detract from or adversely affect the residential character of the Subdivision and (b) construction and showing of model homes authorized by Declarant, shall be conducted on any Lot.

2. Legal Use: No Lot or any part thereof shall be used for any illegal or immoral purposes. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No Lot shall be used or maintained as a dumping ground for waste, trash or garbage; and all waste, garbage and other trash shall be in containers kept in a clean and sanitary condition. No trash, garbage, leaves, brush, or other debris may be burned or incinerated on any Lot. No intoxicating beverages or illegal drugs may be sold on any Lot or common area or other property owned by the Homeowners' Association or within the Subdivision.

3. Division of Lots: No Lot as shown on said plat shall be further resubdivided, divided or decreased in size unless first approved in writing by the Architectural Control Committee, except as follows. Any person owning two or more Lots which adjoin along their sides may resubdivide and consolidate those Lots into one building site, with the privilege of constructing improvements, as permitted by the Covenants, on the resulting building site. Unless the Homeowners Association determines otherwise in its sole discretion, the resubdivided and consolidated lots or building sites (a) shall be entitled to the same number of votes on matters on which members of the Homeowners Association may vote to which the original Lots contained therein were entitled and (b) shall be subject to the same amount of

assessments by the Homeowners Association to which the original Lots contained therein were entitled. In other words, if two Lots are resubdivided and consolidated into one lot or building site, the owners shall be entitled to two votes and the liability for assessments shall be equal to the liability of two Lots unless the Homeowners Association determines otherwise in its sole discretion.

4. Building Setback Lines: No dwelling or outbuilding on a Cottage Lot shall be closer to the front Lot line than twenty (20) feet, and no dwelling or outbuilding on an Executive or Estate Lot shall be closer to the front Lot line than twenty-five (25) feet. On interior Cottage Lots no dwelling or outbuilding shall be closer than five (5) feet to a side Lot line, and on interior Executive or Estate Lots no dwelling or outbuilding shall be closer than ten (10) feet to a side Lot line. On corner Cottage Lots no dwelling or outbuilding shall be closer than ten (10) feet to the street forming the side Lot line of the Lot, and on corner Executive or Estate Lots no dwelling or outbuilding shall be closer than twenty-five (25) feet to the street forming the side Lot line of the Lot. No dwelling or outbuilding on an Executive or Estate Lot shall be closer than ten (10) feet to the rear Lot line. However, a fence, wall, hedge or shrubbery may be constructed or planted or permitted to remain on or near any side or rear Lot line, provided that no such fence, wall, hedge or shrubbery more than two (2) feet in height may be constructed or planted on or along a side Lot line in the area between any street and a point on such Lot line twenty-five (25) feet from the front Lot line without the prior written approval of the Architectural Control Committee. Notwithstanding the foregoing, on corner Lots no fence, wall, hedge or shrubbery that obstructs sight lines at elevations between two (2) and six (6) feet above the roadway shall be placed or permitted to remain within the triangular area formed by the curbs and a line connecting them at points twenty-five (25) feet from the intersection of the curbs, or in the case of a rounded property corner, from the intersection of the curb lines extended, without the written approval of the Architectural Control Committee. The same sight-line limitations shall apply on any Lot within ten (10) feet from the intersection of a curb with any edge of a driveway. No tree shall be permitted to remain within such distances of intersections unless the foliage on such tree within such area shall be kept trimmed to a sufficient height to prevent obstruction of vision of oncoming traffic and meet the sight-line requirements set forth above. The Architectural Control Committee shall have the right to increase or decrease the setback restrictions in case of unusual or irregular shaped Lots where such increase or decrease is deemed by the Architectural Control Committee in its sole discretion to be required for the best appearance of the immediate area.

5. Easements: The use of easements as may be shown on the plat is reserved and granted to (a) any governing entity and the various utility or service companies franchised or authorized by these governing entities or the Public Utility Commission of Texas for the purposes of drainage or the location of water, electrical, telephone or other utility or service provider lines and conduits, and the maintenance thereof and (b) HBH, its successors and assigns, for its lines and maintenance thereof.

No fence, wall, tree, hedge, shrubbery or other obstruction shall be placed on any such easement which will unreasonably interfere with the installation and maintenance of any such utility or drainage. Any fence, wall, tree, hedge, shrubbery or other obstruction placed on any such easement shall be subject to removal in the event any utility company, service company or public entity deems it necessary in connection with the use, maintenance or installation of any utility or service. Right of use for ingress and egress shall be available at all times over any dedicated easement for purposes of installing, operating, maintaining, repairing or removing any utility or service or any obstruction placed in such easement that would interfere with the installation, maintenance, operation, or removal of such utility or service. No utility company, service provider, governmental entity, or other authorized entity using these easements shall be liable for any damage done by them or their agents or employees to shrubbery, trees, flowers or other property or improvements of the Lot owner situated in the easement.

6. Size of Dwellings: The minimum enclosed floor areas, exclusive of garages, carports, porches, patios, and guest quarters, permitted within the Subdivision for detached single family dwellings on Cottage Lots shall be two thousand (2,000) square feet, on Executive Lots shall be two thousand five hundred (2,500) square feet, and on Estate Lots shall be three thousand five hundred (3,500) square feet.

7. Direction of Dwelling and Setbacks: A dwelling shall be constructed on a Lot so as to front upon the street which such Lot faces and no improvements including any building or part thereof, eaves, cornices, or overhangs shall extend beyond the minimum building set back line at the front of the Lot. The Architectural Control Committee shall have the right to designate the direction in which improvements on any corner Lot shall face, and the decision shall be made bearing in mind the best general appearance of that immediate area. The exterior construction materials of a dwelling on a corner Lot shall present a uniform appearance on all streets that particular Lot faces.

8. Types of Structures: No structure shall be erected on any Lot other than (i) one detached single family dwelling not to exceed three (3) stories in height, (ii) one detached or attached garage with the capacity to hold at least two automobiles, and (iii) outbuildings such as guest quarters (subject to Section 9 herein), greenhouses, workshop or barns or the like as are first approved in writing by the Architectural Control Committee. No outbuilding shall exceed in height the dwelling to which it is appurtenant. Every outbuilding except a greenhouse shall correspond in style, architecture, color, and building materials to the dwelling to which it is appurtenant. The Architectural Control Committee may prohibit the construction of any garage or outbuilding on any Lot until the primary dwelling has been constructed or is under construction.

9. Guest Quarters: No garage apartment or detached garage shall exceed in height the dwelling to which it is appurtenant. Living quarters on a residential Lot for other than the family occupying the principal residence may be used only for bona fide servants or relatives of the family occupying the principal residence, and such living quarters shall be within or attached to the main residence or attached to a detached garage. Any living quarters attached to the main residential dwelling shall be attached to the rear of such dwelling. Renting to roomers or to a second family occupying the premises is prohibited.

10. Other Buildings: No house trailer, mobile home, modular home, manufactured home, prefabricated home, motor home, truck body, basement, tent, shack, garage, barn or other outbuilding shall at any time be used as a residence, nor shall any residence of any temporary character be permitted.

11. Impermissible Residences: No temporary building shall be placed, erected or maintained on any Lot except a temporary field office for use as an office only for a reasonable time during actual construction of a dwelling being erected thereon, and then such temporary office must be on the Lot on which construction is in progress and not on adjoining Lots, streets, or easements; and at completion of construction, the temporary building must be removed immediately. No such temporary building or construction shall be used for a residential purpose during construction. No garage apartment or guest quarters may be occupied as a temporary or permanent residence prior to completion of the main residential dwelling. All buildings constructed upon residential Lots shall be completed within a reasonable time, and construction shall be prosecuted continuously and diligently.

12. Exterior Materials: All structures on any Lot located within the Subdivision must have not less than seventy (70%) percent of the area of their exterior walls covered with brick, masonry (masonry is not to be construed as including concrete block or clay tile), Austin stone, concrete fiber board such as Hardiplank, or similar material, unless the use of wood or glass would produce an equal or better appearance, which variations shall be at the sole discretion of the Architectural Control Committee. All residences shall have roofs with a minimum pitch of at least 6:12. All dwellings shall have Class "A" fire rated roofs constructed of tile, materials similar in appearance to wood shingles or a minimum #240 dimensional composition shingle or such other roofing material as first approved by the Architectural Control Committee.

13. Old Buildings: Used Material: No structure shall be moved onto any residential Lot and no used lumber shall be used in construction of a dwelling, garage, or outbuilding on any Lot unless the same constitutes an enhancement as determined by the Architectural Control Committee in its absolute discretion and its express written approval is obtained in advance.

14. Garages and Driveways: Every dwelling shall have either an attached or detached garage with the capacity to hold at least two automobiles and a driveway surfaced with either concrete or brick, and said garage shall not front or open onto a street unless otherwise approved by the Architectural Control Committee. Any other surfacing material must be approved by the Architectural Control Committee. Any garage permitted by the Architectural Control Committee to front or open onto a street shall have at all times such architectural enhancements as the Architectural Control Committee in its absolute discretion may require. Such enhancements need not be the same on Cottage Lots, Executive Lots, and Estate Lots.

15. Other Improvements: No private water wells or water systems other than the system or systems serving the Subdivision shall be permitted. No swimming pool shall be permitted at the front or side of any dwelling. No solar panels or solar heating or electric generating systems or similar apparatus shall be placed in or upon any Lot without the prior written approval of the Architectural Control Committee, which shall have the authority to approve or disapprove the installation thereof or to limit the installation thereof so that no portion thereof is visible from any street. No fence or boundary wall shall be constructed exceeding six and one-half (6-½) feet in height along any rear Lot line or side Lot line. All fences shall be behind both the front building setback line and the front of any dwelling. At the time a dwelling is being constructed on a Lot, a sidewalk 48 inches wide shall also be constructed on all sides of the Lot fronting on a street. No fence, boundary wall, or sidewalk shall be constructed or erected without Architectural Control Committee approval as to its material, appearance, and location. Any fence on or near the boundary line of a Lot adjacent or in close proximity to a creek, watercourse, or common area shall not obstruct any view as determined by the Architectural Control Committee in its absolute discretion.

16. Front Yards: The area of the Lot at the front of a dwelling shall be maintained so as to be an aesthetic asset to the dwelling. This area, known as the front yard, extending the full width of the dwelling and between the dwelling and the street, shall not be used for vegetable gardening, nursery, or any other purpose other than as a maintained grass lawn with shrubbery, ornamental trees, and flowers as normally constitute the base planting and landscaping of a dwelling.

17. Landscape Plan: Prior to the occupancy of any residence constructed in the Subdivision, a minimum of two (2) trees which measure at least three (3) inches in diameter (measured twenty-four (24) inches above ground) and at least six (6) feet in height shall be planted in the front yard of each residence. This requirement shall not apply to any Lot on which there are, prior to occupancy, two (2) or more existing trees of that size already in the front yard of the Lot. The Lot owner must have a landscape plan approved by the Architectural Control Committee prior to the beginning of occupancy of the residence. Such plan must provide for the front and side yards

to be sodded or otherwise completely covered in all areas where grass is planned and for some shrubbery in the front yard prior to occupancy of any residence.

18. Maintenance of Lots: No owner of any Lot, either vacant or improved, shall be permitted to let the Lot go unmaintained, and no weeds or grass shall be permitted upon any Lot in excess of twelve (12) inches in height. Trees, shrubs, vines and plants which die shall be promptly removed from the Lot. If an owner of any Lot fails to maintain the Lot in a neat and orderly manner, the Architectural Control Committee shall have the right, through its agents and employees, to enter the Lot to maintain and restore the Lot at the expense of the Lot owner.

19. Motor Vehicles: No automobile, truck, camper, van, travel trailer, bus, boat or any recreational or utility-type vehicle shall be permitted to be parked on the streets of the Subdivision on a regular basis. No non-passenger truck, camper, travel trailer, bus, boat or any other recreational or utility-type vehicle shall be permitted to be parked on a Lot on a regular basis in such a manner that it is visible from the street. No automobile or other vehicle, truck, camper, van, travel trailer, boat or any recreational or utility-type vehicle shall be stored or parked on any street or Lot in the subdivision while it is being repaired or for any similar purpose unless the same is parked or stored in a closed garage.

20. Signs: No sign of any kind shall be displayed, erected, or maintained on any Lot except one sign of not more than six (6) square feet advertising the Lot for sale or rent, signs used by a builder to advertise the construction during the construction, and signs used by the Declarant in connection with the development of the Subdivision.

21. Mailboxes: All mailboxes shall be constructed of the same building materials, style, architecture, and color as the dwelling to which the mailbox is appurtenant.

22. Antennae: No television or radio antennae, disc satellites or the like shall be erected or maintained at the front or side of any dwelling, and none shall be situated on any Lot within view of the street. No radio transmitter, aerial wires, nor guy wires for antennae shall be maintained on any portion of a Lot forward of the front building line of the Lot. The size and location of any such antennae, disc satellites or the like shall be first approved in writing by the Architectural Control Committee.

23. Animals: No animals, livestock, or poultry of any kind shall be bred, raised, or kept on any Lot, except that a reasonable number of dogs, cats, and other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose.

24. Garbage Cans: No garbage cans or refuse containers shall be placed or permitted to remain at the front of a dwelling either within the street or upon the Lot except on those days scheduled for garbage and refuse collection by a municipality or a privately contracted collector. Sub-surface garbage containers shall be permitted if first approved in writing by the Architectural Control Committee.

25. Mining: No oil drilling, quarrying or mining operations or mineral extraction of any kind shall be permitted upon or in any Lot, nor shall any type of wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any Lot. No derrick or other structure designed for drilling shall be erected, maintained or permitted on any Lot.

26. Construction Debris: No building material of any kind or character shall be placed or stored upon any Lot until the owner is ready to commence construction of improvements, and then such material shall be placed within the boundary lines of the Lot upon which the improvements are to be erected and shall not be placed in the street, between the street and the boundary line or on any adjoining Lot. The Lot owner shall furnish trash containers and, at all times, shall keep the Lot free from accumulation of trash and scrap caused by construction of improvements and shall maintain proper erosion control. No stumps, trees, underbrush, scrap materials or refuse of any kind from the improvements being erected on any Lot or from any clearing of any Lot shall be placed on any adjoining Lot, street, or right-of-way. At completion of the improvements, all remaining trash and scrap shall be disposed of legally; and all tools, construction equipment, machinery, and surplus materials shall be removed from the Lot.

27. Approval by Architectural Control Committee: No improvements of any character shall be erected, or the erection thereof begun, or changes made in the exterior design thereof after the original construction, on any Lot until construction plans and specifications and plans showing the location, nature and type of structure have been submitted to and approved in writing by the Architectural Control Committee as hereinafter constituted. Such approval shall include exterior design, type and quality of materials to be used, colors to be applied to the exterior of the structure, and location with respect to topography and finished grade elevations. The Architectural Control Committee shall be the sole authority for determining whether proposed structures are in harmony of external design with existing structures and the overall plan of development of the Subdivision.

28. Architectural Control Committee: The initial Architectural Control Committee (sometimes herein called the "Committee") shall be composed of not more than three (3) persons appointed by the Declarant, one of whom shall be Steve Sorrells. After the Declarant no longer owns any residential Lot in the Subdivision or after such earlier time that the Declarant has waived in writing the right to appoint members of the Committee, the Committee shall be composed of not more than three



(3) persons, who shall be appointed from time to time by the Board of Directors of the Homeowners' Association for the Subdivision. Members of the Committee other than Steve Sorrells must be owners of one or more residential Lots. Decisions of the Committee shall be determined by a majority vote. The Committee and its successors shall continue in force during the effective period of these Covenants. The Committee's approval or disapproval as required in these covenants shall be in writing. In the event that the Committee shall have failed to approve or disapprove any plan, design, or location within thirty (30) days after plans and specifications have been submitted to it, or if after submission of said plans and specifications no suit to enjoin the erection of such building or the making of such alterations shall have been commenced prior to completion thereof, such approval shall not be required and the requirement of prior approval shall be deemed to have been fully complied with. In the event any member of the Committee ceases to be a member for any reason, the remaining member or members, until a successor is appointed, shall have full authority to take any and all action required or permitted by the Committee. None of the members of the Committee shall be entitled to any compensation for services performed pursuant to this covenant. No member of the Committee shall be liable to any Lot owner or any other party for any action or failure to act with respect to the Covenants, to include without limitation, the failure to enforce any of the Covenants, it being understood that any Lot owner shall have the right and power to enforce any and all of the restrictions and covenants contained herein.

29. Homeowners' Association:

a. The record owner or owners of the fee simple title to the Lots in the Subdivision shall constitute and be members of the Homeowners' Association for the Subdivision (sometimes herein called the "Association"). No person who is not an owner of the fee simple title to a Lot shall be a member of the Association. Each Lot owner shall become a member of the Association contemporaneously with acquiring a Lot without any further documentation of any kind, and Association membership shall be appurtenant to ownership of a Lot in the Subdivision. The owners of a Lot, whether one or more persons, shall together have only one vote on matters on which a vote is required or permitted by these Covenants or the Association. Association membership shall be automatically transferred to a grantee of a conveyance of a Lot in fee. Membership shall not be assigned, pledged, or transferred in any other way and any attempt to make a prohibited transfer shall be void.

b. The Association shall have the power to own, maintain, operate and manage any common area or other property owned by the Association and its amenities, street lights and entrance of the Subdivision and the right of way of any Subdivision common areas; administer and enforce the covenants and restrictions imposed by the Covenants; and collect and disburse the assessments and charges made and collected by the Association. The land on which structures and

improvements of the Association are or will be located is subject to flooding and inundation which may damage them.

c. The Association may be incorporated as a nonprofit corporation or organized in any manner permitted by law. In any event, it shall be managed by a Board of Directors subject to the provisions of the Covenants and pursuant to the procedures set forth in the Association's bylaws, rules and regulations and the provisions of the Association's articles of incorporation, if any, which shall be consistent with the provisions of this section of the Covenants. The initial Board of Directors is composed of not more than three (3) persons appointed by the Declarant, one of whom shall be Steve Sorrells. After the Declarant no longer owns any residential Lot in the Subdivision or after such earlier time that Declarant has waived in writing the right to appoint the members of the Board of Directors, the Board shall be composed of no more than five (5) persons, who shall be elected by the members of the Association. Members of the Board other than Steve Sorrells must be owners of one or more residential Lots. After the Declarant no longer owns any Lots in the Subdivision or after such earlier time that Declarant has waived in writing the right to appoint the members of the Board of Directors, there shall be at least one meeting of the membership of the Association each year. At that meeting the members shall elect a Board consisting of at least three (3) Directors, vote on any other matters the Board chooses to place before the membership, and discuss any matter of Association business that the Board or any Lot owner wishes to bring before the entire membership. The owner(s) of each Lot in the Subdivision shall together be allocated only one vote for each Lot owned. No member of the Board shall be liable to any Lot owner or any other party for any action or failure to act with respect to the Covenants, to include without limitation, the failure to enforce any of the Covenants, it being understood that any Lot owner shall have the right and power to enforce any and all of the restrictions and covenants contained herein. Decisions of the Board shall be determined by a majority vote. The Board and its successors shall continue in force during the effective period of the Covenants. The Board's approval or disapproval as required in these covenants shall be in writing.

d. In the event any member of the Board ceases to be a member for any reason, the remaining members shall be entitled to designate and appoint an individual to replace the former member until the next annual meeting of the members. In the event any member of said Board ceases to be a member, the remaining member or members, until a successor is appointed, shall have full authority to take any and all action required or permitted by the Board. Neither the members of the Board nor its designated representatives shall be entitled to any compensation for services performed pursuant to this covenant. Members of the Board, the officers and any assistant officers, agents and employees of the Board (i) shall not be liable to the members as a result of their activities in those capacities for any mistake of judgment, negligence or otherwise, except for their own willful misconduct or bad faith; (ii) shall have no personal liability in contract to any member or any other person or entity under

any agreement, instrument or transaction entered into by them on behalf of the Association in those capacities; (iii) shall have no personal liability in tort to any member or any person or entity, direct or imputed, by virtue of acts performed for them in those capacities; and (iv) shall have no personal liability arising out of the use, misuse or condition of the improvements, which might in any way be assessed or imputed to them as a result or by virtue of those capacities, except for their own willful misconduct or bad faith. The Association shall indemnify and hold harmless any person, his heirs and his personal representatives, from and against all personal liability and all expenses, including attorney's fees, incurred or imposed or arising out of or in settlement of any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, instituted by any one or more members of the Homeowners' Association or any other person or entity against such person for any action or omission by such person in the capacity of an officer, director, agent or employee of the Association, other than to the extent that such liability or expense shall be attributable to such person's willful misconduct or bad faith, provided that in the case of any settlement, the Board shall have approved the settlement, which approval shall not be unreasonably withheld. Such right of indemnification shall not be deemed exclusive of any other rights to which the person may be entitled as a matter of law or agreement, vote of members of the Board or otherwise. The indemnification by the Association and/or members as contained herein shall be paid by the Association on behalf of the members and shall be assessed and collectible as an assessment.

e. Through the Board, the Association shall have the following additional general powers and duties:

- To adopt rules and regulations to implement the Covenants and the Association's bylaws;
- To enforce the Covenants, the bylaws, its rules and its regulations;
- To elect officers of the Board and select members of the Architectural Control Committee, if that power devolves to the Board;
- To delegate its powers to committees, officers or employees;
- To prepare a balance sheet and operating income statement for the Association and deliver a report to the membership at its annual meeting;
- To establish and collect regular assessments to defray expenses attributable to the Association's duties, to be levied against each Lot and the owner thereof;
- To establish and collect special assessments for capital improvements or other purposes;
- To file liens against Lots because of non-payment of assessments duly levied and to foreclose on those liens;
- To institute any legal proceedings necessary or advisable to enforce the Covenants or the bylaws, rules or regulations;
- To receive complaints regarding violations of the Covenants, the bylaws or the rules and regulations;

To hold hearings to determine whether to discipline Lot owners who violate the Covenants, the bylaws or the rules and regulations;  
To manage and maintain any common areas or other property owned by the Association in a state of high quality and good repair;  
To pay taxes on any common area or other property owned by the Association;  
To acquire and pay the cost of any liability, casualty, or other insurance on any common area or other property owned by the Association;  
To give reasonable notice to all Lot owners of all annual meetings of the membership and all disciplinary hearings; and  
To hold regular meetings of the Board at least annually.

The covenants and provisions of this section shall apply to all Lots and their owners.

f. In addition to the powers and duties set out above, the Association shall have the following powers and duties with regard to Cottage Lots:

To mow, trim, irrigate, landscape, maintain, and clean the front yard of Cottage Lots (the Association shall have an easement thereon for such purposes), but the owners thereof shall not be relieved of the responsibility for repairs and replacements required as a result of damage caused the owners or any other person;

To establish and collect additional regular and special assessments to defray expenses attributable to the Association's duties, to be levied against each Cottage Lot and the owner thereof;

To file liens and institute legal proceedings to enforce such assessments as provided above.

### 30. Assessments:

a. Declarant, for each Lot within the Subdivision, covenants and agrees, and each subsequent owner of a Lot within the Subdivision by acceptance of conveyance of the Lot shall be deemed to covenant and agree, whether or not such covenant and agreement are expressed in the deed or conveyance, and such covenant and agreement shall be deemed to constitute part of the purchase money and consideration for acquisition of the Lot, to pay to the Association regular and special assessments established by the Association. The assessments, together with interest and costs of collection hereinafter provided, shall be a charge on the land, shall be a continuing lien upon each Lot against which the assessment is made, and shall be the continuing personal obligation of the owner of the Lot at the time the assessment is made. Provided, however, that assessments shall not be made on any Lot owned by the Declarant until such time that the Declarant waives in writing this provision; and none of the common areas or other property owned by the Association and none of the property constituting the Gas System to which said Propane Utilization Restrictive Covenant refers shall be subject to assessments.

b. The assessments pursuant to Section 31.e shall be used exclusively for (i) the purpose of promoting the recreation, safety, welfare, comfort, convenience, and quality of life of residents of the Subdivision, (ii) the improvement, management, maintenance, and repair of the common areas of the Subdivision and other property owned by the Association, including payment of property taxes, insurance, and utilities related to the common areas and other property owned by the Association, and (iii) the payment of expenses of the Association.

c. The maximum regular assessment pursuant to Section 31.e shall be determined by the Board of Directors of the Association from time to time but shall not initially exceed \$75.00 per Lot per month during the first year after the Covenants are filed for record in the Official Public Records of Real Property of McLennan County, Texas. The Board of Directors of the Association may increase the maximum regular assessment, but such increases shall not exceed the greater of (i) five percent (5%) of the previous maximum regular assessment or (ii) inflation as measured by the increase in the Consumer Price Index value in effect immediately before the increase in the maximum regular assessment over the Consumer Price Index value in effect on the beginning date of the previous maximum regular assessment. The Board of Directors of the Association may establish such greater maximum regular assessments as may be approved by the affirmative vote of a majority of the members of the Association who vote, provided that not less than twenty-five percent (25%) of the members of the Association vote.

d. In addition to the regular assessments, the Board of Directors of the Association may establish special assessments for capital improvements on the common areas and other property owned by the Association or within the Subdivision or for other purposes described in Subsection b. A special assessment shall not exceed the annual amount of the regular assessment then in effect unless a greater amount is approved by the affirmative vote of a majority of the members of the Association who vote, provided that not less than twenty-five percent (25%) of the members of the Association vote.

e. Assessments shall be due and payable in McLennan County, Texas, on such dates and at such intervals as may be established by the Board of Directors of the Association. The Association shall make reasonable efforts to provide actual notice of assessments to owners of Lots within the Subdivision, but failure to give notice shall not remove the obligation to pay the assessments. Assessments which are not paid by the due date shall bear interest at the maximum contract rate allowed by law, and the interest shall be due on demand.

f. Acceptance of payment of less than the entire amount due shall not constitute a waiver or an accord and satisfaction and shall not affect the right to collect the balance of assessments, interest, and costs of collection.

g. The Association on reasonable request shall furnish with regard to a Lot a certificate, signed by an officer of the Association, stating whether any assessments are due and unpaid against the Lot and, if any are due and unpaid, the amount thereof. The certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid. The Association may make a reasonable charge for providing any such certificate.

h. The Association may engage attorneys to collect assessments which are due and unpaid. All costs of collection, including attorneys' fees, shall be due and payable on demand.

i. The Association may prepare and file in the public records affidavits identifying unpaid assessments, interest, and costs of collection and the Lot or Lots against which they are due.

j. To further evidence the lien created by this Section, each Lot within the Subdivision is hereby granted, sold, and conveyed to Stephen A. Sorrells, Trustee, for the benefit of the Association; to have and to hold each Lot, together with the rights, privileges, and appurtenances thereto belonging unto Trustee and Trustee's substitutes or successors forever. This conveyance, however, is made in trust to secure payment of the assessments, interest, and costs of collection. In the event that any assessments, interest, or costs of collection are not paid when due, Trustee, at the request of the Association (which request is hereby conclusively presumed), shall enforce this trust against the Lot or Lots against which the assessments, interest, or costs of collection are due (the "Property"). After compliance with the requirements of Section 51.002, Texas Property Code, as then amended (or any successor or replacement statute), the Trustee shall sell the Property, or such portion thereof as requested by the Association, by public sale at auction in compliance with such statute to the highest bidder. Trustee may sell all of the Property as an entirety or in such parcel or parcels as Trustee may elect and make conveyance to the purchaser or purchasers, with general warranty binding the heirs, executors, administrators, successors, and assigns of the owner. If Trustee elects to sell the Property in more than one parcel, the parcels may be sold in such order as Trustee may elect and may be sold, after notice as required by such statute, on the same foreclosure day or on different foreclosure dates as Trustee may elect. In the event of any sale or sales hereunder of less than all of the Property, then the lien and the power of sale granted herein shall not be exhausted or terminated and shall continue to exist with regard to any portion of the Property not previously sold by Trustee. Out of the money arising from such sale or sales, Trustee shall pay (1) all expenses of the sale and the conveyance; (2) to the Association the full amount of assessments, interest, attorney's fees, and other costs of collection; (3) any ad valorem taxes and all other taxes, charges, and assessments, and any interest, costs, and penalties with regard thereto due and unpaid with regard to the Property, and any amounts secured by any liens with regard to the Property, in such order and amount as Trustee may elect; (4) any

amounts required or permitted by law to be paid before payment to the owner; and (5) the balance of the sale price, if any, to the owner and the owner's heirs, executors, administrators, successors, or assigns. The recitals in the conveyance to the purchaser or purchasers shall be full and conclusive evidence of the truth of the matters therein stated, and all prerequisites to the sale shall be presumed to have been performed, and such sale and conveyance shall be conclusive against the owner and the owner's heirs, executors, administrators, successors, and assigns. The Association, if it is the highest bidder, shall have the right to purchase at any sale of the Property and to have the amount due to the Association credited to the amount bid. In the event a foreclosure hereunder should be commenced by Trustee, the Association may at any time before the sale of any of the Property direct Trustee to abandon the sale without prejudice to any rights of the Association or Trustee. The Association may institute suit for the collection of the amounts due and unpaid and for foreclosure under this lien. If the Association institutes suit for the collection of the amounts due and unpaid and for foreclosure under this Deed of Trust, the Association may at any time before the entry of a final judgment in said suit direct Trustee to sell the Property in accordance with the provisions hereof. The Association in any event is hereby authorized to appoint a substitute or successor trustee to act instead of Trustee without other formality than the designation in writing of a substitute or successor trustee. The authority hereby conferred shall extend to the appointment of other successor or substitute trustees successively. Each substitute or successor trustee shall succeed to all of the rights and powers of Trustee. All references herein to Trustee shall include Trustee's successors and substitutes. In the event any sale is made of the Property, or any portion thereof, under the terms hereof, all persons in possession shall forthwith upon the making of such sale surrender and deliver possession of the Property so sold to the purchaser at such sale. In the event of their failure to do so, they shall thereupon be conclusively deemed to be guilty of forcible detainer and the purchaser and purchaser's heirs, executors, administrators, successors, or assigns, shall be entitled to institute and maintain an action for forcible detainer. In the event of any sale or sales of a Lot or Lots hereunder, the lien and the power of sale granted herein shall not be exhausted or terminated and shall continue to exist to secure payment of assessments, interest, and costs of collection to become due after such sale or sales.

k. The lien created by this Section shall be paramount and superior to any claim of homestead or other exemption provided by law. The lien created by this Section shall be subject, subordinate, and inferior to any mortgage, any deed of trust lien, and any other lien created by mechanic's lien contract or other contract.

31. Enforcement: The Declarant or the Association or any Lot owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, and reservations imposed by the Covenants. Failure to enforce any restriction or condition shall not be deemed to be a waiver of the right of enforcement

either with respect to the violation in question or any other violation. All waivers must be in writing and signed by the party to be bound.

32. Attorney's Fees: If any controversy, claim, or dispute arises relating to this instrument, its breach or its enforcement, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees and costs.

33. Additions to Subdivision:

a. Without the joinder or consent of any person or entity, Declarant may add real property from time to time to the scheme of this Declaration by filing of record an appropriate enabling declaration or declarations, generally similar to this Declaration, extending the scheme of the Covenants to the additional property. Such other declarations may contain such additions and modifications of these Covenants as Declarant deems to be necessary and to be consistent with the concept and purpose of this Declaration. The rights and benefits of this provision may be assigned to Steve Sorrells or any entity owned, controlled, or managed by Steve Sorrells.

b. Any additions made pursuant to this Section, when made, shall automatically extend the jurisdiction, functions, rights, and duties of the Association and membership therein to the properties added and the owners thereof.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2004.

SDC BADGER RANCH, L.P.

By: SDC BADGER RANCH MANAGEMENT, L.L.C.,  
GENERAL PARTNER

By: \_\_\_\_\_  
Stephen A. Sorrells, Manager