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**RESERVATIONS, RESTRICTIONS AND COVENANTS**

**APPLICABLE TO**

**MOUNTAIN CREST SUBDIVISION, UNIT FOUR**

**HAYS COUNTY, TEXAS**

616035-B

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COUNTY OF HAYS

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KNOW ALL MEN BY THESE PRESENTS:

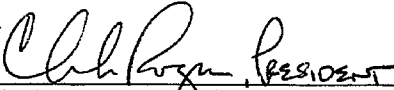
I, Chuck Rogers Homebuilder, Inc., of Wimberley, Hays County, Texas, as the owner of Lots One through Sixteen in Mountain Crest Unit Four of Hays County, Texas, do hereby adopt, reservations, restrictions and covenants applicable to Mountain Crest Subdivision, Unit Four (the "Unit Four Restrictions"), attached hereto as Appendix A.

To carry out a uniform plan and scheme for the improvement, development, and sale of property in Mountain Crest Subdivision, the Modified Restrictions were adopted, established, promulgated and impressed upon Mountain Crest Subdivision Units One, Two, and Three, recorded in Volume 1232, pages 699-702 of the Real Property Records of Hays County, Texas.

To further carry out a uniform plan and scheme for the improvement, development, and sale of property in Mountain Crest Subdivision, the Unit Four Restrictions, attached as Appendix A, are hereby adopted, established, promulgated and impressed on Unit Four and are hereby made applicable to Unit Four as set forth in Appendix A.

If any section, paragraph, clause or provision of this document attached hereto as Appendix A shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this document.

EXECUTED this the 2<sup>nd</sup> day of February, 1999.

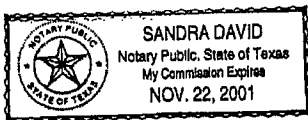
  
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Chuck Rogers Homebuilder, Inc.  
Owner of Lots One through Sixteen, Unit Four,  
Mountain Crest Subdivision

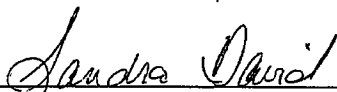
STATE OF TEXAS  
COUNTY OF HAYS

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BEFORE ME, the undersigned, a Notary Public, on this day personally appeared Chuck Rogers Homebuilder, Inc., known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 2<sup>nd</sup> day of February, 1999.



  
\_\_\_\_\_  
Notary Public in and for  
The State of Texas

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APPENDIX A 1499 267

RESERVATIONS, RESTRICTIONS AND COVENANTS

APPLICABLE TO

MOUNTAIN CREST SUBDIVISION, UNIT FOUR

To carry out a uniform plan and scheme for the improvement and development of property within the Mountain Crest Subdivision, Unit One, as described and platted in Volume 4, pages 115-116, of the Plat Records of Hays County, Texas ("Unit One"), Mountain Crest Subdivision, Unit Two, as described and platted in Volume 6, page 313, of the Plat Records of Hays County, Texas ("Unit Two"), and Mountain Crest Subdivision, Unit Three, as described and platted in Volume 7, page 105, of the Plat Records of Hays County, Texas ("Unit Three"), the Modified Restrictions (as defined herein) were adopted, established, promulgated and impressed upon and made applicable to Units One, Two, and Three. To further carry out a uniform plan and scheme for the improvement and development of property within the Mountain Crest Subdivision and Mountain Crest Subdivision, Unit Four, as described in the maps or plats of Unit Four recorded in Volume 8, page 272, Plat Records of Hays County, Texas ("Unit Four"), the following reservations are hereby adopted, established, promulgated and impressed upon and made applicable to Unit Four (the "Unit Four Restrictions").

I.  
GENERAL PROVISION

Section 1.01. Definitions.

"Association" shall mean the Mountain Crest Community Association established by the Modified Restrictions.

"Committee" shall mean the Mountain Crest Subdivision Architectural Committee established by the Modified Restrictions.

"Developer" shall mean Chuck Rogers Homebuilder, Inc. who, in Unit Four, purchased Lots 1 through 16, as filed in the Official Public Records of Hays County, Texas.

"Lot" or "Lots" shall mean lots one (1) through sixteen (16) of Unit Four, as shown on the Plat.

"Maintenance Charge" shall mean the maintenance charge established in Article V.

"Modified Restrictions" shall mean those amended reservations, restrictions and covenants recorded in Volume 1232, pages 699-702, Real Property Records of Hays County, Texas, applicable to Units One, Two, and Three.

"Plat" shall mean the map or plat of Unit Four recorded in Volume 8, page 272, Plat Records of Hays County, Texas.

"Subdivision" shall mean Mountain Crest Subdivision, Units One, Two, Three, and Four.

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"Unit One" shall mean the Mountain Crest Subdivision, Unit One, as shown on the map or plat recorded in Volume 4, pages 115-116, Plat Records of Hays County, Texas.

"Unit Two" shall mean the Mountain Crest Subdivision, Unit Two, as shown on the map or plat recorded in Volume 6, page 313, of the Plat Records of Hays County, Texas.

"Unit Three" shall mean the Mountain Crest Subdivision, Unit Three, as shown on the map or plat recorded in Volume 7, page 105, of the Plat Records of Hays County, Texas.

"Unit Four" shall mean the Mountain Crest Subdivision, Unit Four, as shown on the map or plat recorded in Volume 8, page 272, of the Plat Records of Hays County, Texas.

"Unit Four Restrictions" shall mean these reservations, restrictions and covenants.

*Section 1.02. Applicability.*

Each contract, deed or deed of trust which may be hereafter executed with respect to any property in the Subdivision shall be deemed and held to have been executed, delivered and accepted subject to all of the provisions of these Restrictions and any amendments and supplements thereto, regardless of whether or not any of such provisions are set forth in said contract, deed, or deed of trust, and whether or not referred to in any such instrument.

*Section 1.03. Dedication.*

The streets and roads shown on the Plat are for the sole and exclusive use of the Developer, the Association and the owners of the property in the Subdivision. The Association may construct, maintain and operate a security gate or gates at the entranceway of roads or streets into the Subdivision. The security gate or gates may have a security device which permits entrance into the Subdivision only upon the entry of a security code which may be changed by the Association from time to time. The Association may make rules and regulations relating to the use of the streets and roads, including the establishment of speed limits, posting of traffic regulation signs, vehicular load limits, and use by utility companies, and the maintenance thereof. The Association may construct bumps or other devices which control or regulate the speed of vehicular traffic. The Association may dedicate the streets and roads to the public at such time as either the Association in its opinion, deems public roads and streets are in the best interest of the Subdivision and may grant negative or affirmative easements with respect to the streets and roads including, without limitation, sanitary control easements.

*Section 1.04. Reservations.*

a. All interest owned by the Developer in the oil, gas, or other minerals in, on or under the property will be conveyed by Developer and no such interests are reserved by Developer.

b. The utility easements shown on the Plat are dedicated with the proviso that such utility easements are for the use and benefit of any public or private utility operating in Hays County, Texas, as well as for the benefit of the Developer, his successors and assigns, the Association and the property owners in the Subdivision to allow for the construction, repair, maintenance and operation of a system or systems of electric lights and power, telephone and cable television lines, gas, water, sanitary sewers, storm sewers and any other utility or service to serve the Subdivision. Utility easements are reserved for a width

of twenty (20) feet on all front and back property lines of each lot; and five (5) feet on all interior lot lines of each lot except where two (2) or more lots are combined and are to be used as only one (1) building site.

c. The title conveyed to any lot in the Subdivision shall not be held or construed to include the title to the water, gas, electricity, telephone, cable television, storm sewer or sanitary sewer lines, poles, pipes, conduits or other appurtenances or facilities owned by public or private utility companies upon, under, along, across or through such public utility easements; and the right (but no obligation) to construct, maintain, repair, and operate such systems, utilities, appurtenances and facilities is reserved to the public or private utilities.

d. The right to sell or lease such lines, utilities, appurtenances or other facilities to any municipality, governmental agency, public service corporation or other party is hereby expressly reserved to any public or private utility owning same.

e. The Developer, or his successors and assigns, reserves the right to make minor changes in and minor additions to such utility easements for the purpose of more efficiently serving the Subdivision or any property therein.

f. Neither the Developer nor his successors or assigns, nor any public or private utility using said utility easements shall be liable for any damage done by any of such parties or any of their agents or employees to shrubbery, trees, flowers or other property of the landowner situated on the land covered by said utility easements.

*Section 1.05. Duration.*

The provisions hereof shall run with the land and shall be binding upon the Developer, his successors and assigns, and all persons or parties claiming under it or them for a period of thirty-three (33) years from January 1, 1999, at which time all of such provisions shall be automatically extended for successive periods of ten (10) years each, unless prior to the expiration of any such period of thirty-three (33) years or ten (10) years, the then owners of two-thirds (2/3) of lots in the Subdivision shall have executed and recorded an instrument changing the provisions hereof, in whole or in part, the provisions of said instrument to become operative at the expiration of the particular period in which such instrument is executed and recorded, whether such particular period be the aforesaid thirty-three (33) year period or any successive ten (10) year period thereafter.

*Section 1.06. Enforcement.*

In the event of any violation or attempted violation of any of the provisions hereof, enforcement shall be authorized by any proceedings at law or in equity against any person or persons violating or attempting to violate any of such provisions, including proceedings to restrain or prevent such violation or attempted violation by injunction, whether prohibitive in nature or mandatory in commanding compliance with such provisions; and it shall not be a prerequisite to the granting of any such injunction to show inadequacy of legal remedy or irreparable harm. Likewise, any person entitled to enforce the provisions hereof may recover such damages as such person has sustained by reason of the violation of such provisions. It shall be lawful for any person or persons owning property in the Subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate such provisions.



*Section 1.07. Partial Invalidity.*

In the event that any portion of the provisions hereof shall become or be held invalid, whether by reason of abandonment, waiver, estoppel, judicial decision or otherwise, such partial invalidity shall not affect, alter or impair any other provision hereof which was not thereby held invalid, and such other provisions shall remain in full force and effect, and binding in accordance with their terms.

*Section 1.08. Effect of Violations on Mortgages.*

No violation of the provisions herein contained, or any portion thereof, shall affect the lien of any mortgage or deed of trust presently or hereafter placed of record or otherwise affect the rights of the mortgagee under any such mortgage, holder of any such lien or beneficiary of any such deed of trust; and any such mortgage, lien or deed of trust may, nevertheless, be enforced in accordance with its terms, subject, nevertheless, to the provisions herein contained.

**II.**  
**ARCHITECTURAL CONTROL**

*Section 2.01. Basic Rule.*

No building or other improvement of any character shall be erected or placed, or the erection or placing thereof commenced, or changes made in the design thereof or any addition made thereto or exterior alteration made therein after original construction, on any property in the Subdivision until the owner of such property has applied in writing and has received the necessary approval (as hereinafter provided) of the construction plans and specifications and a plat showing the location of such building or other improvements. Approval shall be granted or withheld based on matters of compliance with the provisions of this instrument, quality of materials, harmony of external design with existing and proposed structures and location with respect to topography and finished grade elevation.

*Section 2.02. Permit Fees.*

The Committee may, in its sole discretion, charge and collect a fee in compensation for the time and expense of reviewing and considering plans for the original construction, or for any modifications, additions or alterations to the original plans. Upon collection of the same, such fees shall be forwarded to the Association referred to in Section 6.01 herein.

*Section 2.03. Architectural Committee.*

a. The authority to grant or withhold architectural control approval as referred to above is vested in the Committee (as provided in paragraph b below).

b. The governing board of the Association shall appoint no more than three (3) members to serve on the Committee. Committee members may be members of the Association's governing board. Each member of the Committee must be an owner of property in the Subdivision.

Upon the death, resignation, refusal or inability of any member of the Committee to serve, the remaining members of the Committee shall fill the vacancy by appointment.

Approval or disapproval as to architectural control matters as set forth in the preceding provisions shall be in writing. In the event that the Committee fails to approve or disapprove in writing any plans and specifications and plat submitted to it in writing within thirty (30) days following such submission, such plans and specifications and plat shall be deemed approved and the construction of any such building and other improvements may be commenced and proceeded within compliance with all such plans and specifications and plat and all of the other terms and provisions hereof. If, however, the Committee requires additional information to be submitted, then the above thirty (30) day period does not begin until the Committee receives such additional information.

Section 2.05. *Effect of Approval.*

The granting of the aforesaid approval shall constitute only an expression of opinion of the Committee, that the terms and provisions hereof shall be complied with if the building and/or other improvements are erected in accordance with said plans and specifications and plat; and such approval shall not constitute in any nature a waiver or estoppel either as to the persons expressing such approval or any other person in the event that such building and/or improvements are not constructed in accordance with such plans and specifications and plat. Further, no person exercising any prerogative of approval or disapproval shall incur any liability by reason of the good faith exercise thereof. Exercise of any such prerogative by one (1) or more members of the Committee in their capacity as such shall not constitute action by the Developer.

**III.  
DESIGNATION OF TYPE OF LOTS**

Section 3.01. *Designation of Lots.*

All lots in Unit Four, being lots numbered 1-16, shown on the recorded Plat are hereby designated as single family residential lots as provided in Section 4.01.

**IV.  
GENERAL RESTRICTIONS**

Section 4.01. *Use of Lots.*

All Lots in Unit Four shall be used only for single-family residential purposes. No noxious or offensive activity of any sort shall be permitted, nor shall anything be done on any lot which may be or become an annoyance or nuisance to the neighborhood. No lot in the Subdivision shall be used for any commercial, business or professional purpose nor for church purposes. No house trailer, recreational vehicle, camper trailer, camper vehicle, or portion thereof shall be lived in on any lot.

Section 4.02. *Required Square Footage of Residence/Garage.*

The living area of the main residential structure (exclusive of porches, whether open or screened, garage or other car parking facility, terraces, driveways and servants quarters) shall not be less than the following respective amounts for each of the lots in Unit Four:

1,500 square feet for a one-story dwelling and 2,000 square feet for a two-story dwelling.

Each residence shall, at a minimum, contain a two-car garage.

*Section 4.03. Set-back Line Requirement.*

Buildings must be located at least twenty-five (25) feet from any front or side lot line that abuts a street (the "Building Set-Back Line"). No building shall be located nearer than seven and one-half (7-1/2) feet to an interior lot line. For the purpose of this covenant, eaves, steps and unroofed terraces shall not be considered as part of a building, provided, however, that this shall not be construed to permit any portion of the construction on a lot to encroach upon another lot. Variations from these requirements as to building location may be granted by the Committee if the above requirements are not feasible, considering the terrain of the lot, flood plain boundaries and drainage easements or ways.

*Section 4.04. Consolidation of Lots.*

Any owner of one or more adjoining lots (or portions thereof) may consolidate such lots or portions into one building site, with the privilege of placing or constructing improvements on such resulting site, in which case side set-back lines shall be measured from the resulting side property lines rather than from the lot lines as indicated on the recorded Plat. Any such composite building site (or building site resulting from the remainder of one or more lots having been consolidated into a composite building site) must be of not less than thirty thousand (30,000) square feet in area and this shall supersede any contrary provision in the Subdivision Plats. Any modification of a building site (changing such building site from either a single lot building site or from a multiple whole lot building site), whether as to size or configuration, may be made only with the prior written approval of the Committee and other approval required by law. Upon any such required approval having been obtained, such composite building site shall thereupon be regarded as a "lot" for all purposes hereunder except for the payment of assessment fees to the Association.

*Section 4.05. Temporary Structures.*

No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding, shall be used on any lot at any time as a residence, except, however, that a garage may contain living quarters for bona fide servants and except also that a field office, as hereinafter provided, may be established.

Until the Developer has sold all lots in Unit Four (and during the progress of construction of residences in Unit Four), a temporary field office for sales and related purposes may be located and maintained by the Developer (and/or their sales agents). The location of such field office may be changed, from time to time, as lots are sold. The Developer's right to maintain such field office (or permit such field office to be maintained) shall cease when all lots in Unit Four, except the lot upon which such field office is located, have been sold.

*Section 4.06. Animal Restrictions.*

No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other common household pets may be kept as household pets provided they are not kept, bred or maintained for commercial purposes and provided they do not constitute a nuisance and do not, in the sole judgment of the Committee, constitute a danger or potential or actual disruption of other lot owners, their families or guests. All dogs must be maintained within a fenced yard or on a leash.

*Section 4.07. Fences, Etc.*

No wall, fence, planter, object, hedge, or other thing, in excess of two (2) feet high shall be erected or maintained nearer to the front lot line than the front Building Set-Back Line, as defined herein. No rear fence, wall or hedge and no side fence, wall or hedge located between the side building line and the interior lot line (or located on the interior lot line) shall be more than six (6) feet high.

*Section 4.08. Clothes Drying.*

The drying of clothes in public view is prohibited.

*Section 4.09. Sanitation.*

All lots shall be kept at all times in a sanitary, healthful and attractive condition, and the owner or occupant of all lots shall keep all weeds and grass thereon cut and shall in no event use any lot for storage of material or equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted, or permit the accumulation of garbage, trash or rubbish of any kind thereon. Any incinerator or other equipment for the storage or disposal of such material shall be kept in a clean, sanitary and sightly condition. During the construction of improvements no trash shall be burned on any lot except in a safe manner and unless so burned, shall be removed by the lot owner. No substances which are or could be hazardous to the human health or the environment may be dumped, deposited, stored, treated, poured, pumped, injected, emitted or abandoned on any lot or any road or street in the Subdivision.

In the event of default on the part of the owner or occupant of any lot in serving the above requirements or any of them, such default continuing after ten (10) days written notice thereof, the Committee may, without liability to the owner or occupant in trespass or otherwise, enter upon (or authorize one or more others to enter upon) said lot, and cause to be cut, such weeds and grass, and remove or cause to be removed such garbage, trash and rubbish or do any other thing necessary to secure compliance with these Unit Four Restrictions, so as to place said lot in a neat, attractive, healthful and sanitary condition, and may charge the owner or occupant of such lot for the reasonable cost of such work and associated materials. The owner or occupant, as the case may be, agrees by the purchase or occupation of the property to pay such statement immediately upon receipt thereof; however, the payment of such charge is not secured by any nature of lien on the property.

*Section 4.10. Boats, Trailers and Recreational Vehicles.*

Boats, trailers and other recreational vehicles and camper trailers must be parked between the rear of the residence occupying a lot and the rear property line of the lot. Boats, trailers, recreational vehicles, and camper trailers may not be parked in the streets of the Subdivision.

*Section 4.11. Signs.*

Before initial residential occupancy, no sign, advertisement, billboard or advertising structure of any kind may be erected or maintained on any lot in the Unit Four by any person other than the Developer without the prior approval of the Committee. Any such approval which is granted by the Committee may be withdrawn at any time by the Committee, in which event, the party granted such permission shall, within the period designated by the Committee (which in no event shall be less than five (5) days), remove the

same. After initial residential occupancy of improvements on any particular lot in the Subdivision, no sign, advertisement, billboard or advertising structure of any kind other than a normal for-sale sign approved by the Committee as to design, not exceeding two (2) feet by three (3) feet erected on a post in the ground, and applicable to such lot alone, may be erected or maintained on such lot.

The Committee shall have the right to remove and dispose of any such prohibited sign, advertisement, billboard, or advertising structure which is placed on any lot, and in so doing shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal or in any way be liable for any accounting or other claim by reason of the disposition thereof. The owner or occupant of such lot agrees by the purchase or occupation of the property to pay for the reasonable cost of such removal and disposition.

*Section 4.12. Dirt Removal.*

The digging of dirt or the removal of any dirt from any lot is expressly prohibited except as necessary in conjunction with the landscaping of a lot or construction of improvements on a lot or utilities thereto.

*Section 4.13. Hunting on Lots.*

No lot in the Subdivision shall be used or permitted for hunting or for the discharge of any pistol, rifle, shotgun, or any other firearm, or any bow and arrow or any other device capable of killing or injuring persons or animals.

*Section 4.14. Sewage.*

No outside toilets will be permitted (except during construction of a residence on a lot) and no installation of any type of device for disposal of sewage shall be allowed which would result in raw or untreated or unsanitary sewage being carried into any water body. No septic tank or other means of sewage disposal may be installed unless approved by the proper governmental authorities having jurisdiction with respect thereto.

Arrangements will be made by a builder during the construction of a residence for the builder and his employees to have easily accessible toilet facilities in Unit Four (which may be a chemical toilet).

*Section 4.15. Drilling for Oil.*

No oil drilling, oil development operations, oil refining, or mining operations of any kind shall be permitted upon any lot, nor shall any wells, tanks, tunnels, mineral excavations or shafts be permitted upon any lot. No derrick or other structure designed for use in boring for oil, or natural gas, shall be erected, maintained or permitted on any building site. At no time shall the drilling, usage or operation of any water well be permitted on any lot.

*Section 4.16. Drainage Structures.*

Drainage structures under private driveways shall always have a net drainage opening area of sufficient size to permit the free flow of water without backwater.

*Section 4.17. Roofs, Building Materials, and Carports.*

All roofs of residences or other structures on any lot shall be black, brown, gray or a similar earth tone color if approved by the Committee and shall not be constructed of a material which directs a viewer's eye to such roof and away from the scenic views in the Subdivision.

To reduce fire hazards, wood roof surfaces are not permitted. Fire resistant materials shall be used on all roof surfaces.

Exterior walls of all residences shall have a minimum of fifty (50%) percent masonry or stone, exclusive of openings. The substitution of pre-manufactured material in place of masonry or stone is not acceptable. Permastone, asbestos shingles, concrete or cinder blocks are not acceptable, except that concrete and cinder blocks may be used structurally if faced with brick, stone or stucco.

A carport may not be open to the street and must be open to a side lot line or the rear lot line.

*Section 4.18. Yard Sales.*

Garage and yard sales shall be limited to the personal belongings of no more than two (2) residents for a duration of no longer than two (2) days. More than two (2) sales at any one location during the same calendar year is prohibited. Auctions are prohibited.

*Section 4.19. Residential Off-Street Parking Requirements.*

Since streets are narrow and provide limited parking area, residential off-street parking requirements are essential. Each dwelling unit shall have a minimum of three (3) hard-surface, off-street parking areas, each area measuring nine (9) feet by twenty (20) feet.

**V.  
MAINTENANCE CHARGE**

*Section 5.01. Amount of Maintenance Charge*

Beginning on January 1, 1999, the owner of any lot in Unit Four (other than the Developer) in Unit Four is subject to a monthly Maintenance Charge of ten dollars (\$10.00) per lot for the purpose of creating a maintenance fund. Said payments shall be made to the Association or its successors or assigns, as the needs of the property may, in its judgment, require but in no event shall such charge be more than ten dollars (\$10.00) per month per lot unless such adjusted increase has been approved by fifty-one percent (51%) of the lot owners in the Subdivision. Until reduced by the Association, the monthly Maintenance Charge shall be ten dollars (\$10.00). Maintenance Charges shall accrue monthly and shall be delinquent on March 1 of the year following the year in which they accrued. Maintenance Charges shall begin to accrue monthly on lots owned by Developer when sold or conveyed to a subsequent purchaser. At the time of sale of any lot by the Developer there shall be collected and paid to the Association the Maintenance Charges which will accrue between the date of sale and the following January 1. At the time of a sale of any lot by anyone other than Developer, there shall be collected all past due Maintenance Charges (including all penalties and interest thereon) and the Maintenance Charges which will accrue during the calendar year of sale.

*Section 5.02. Special Group Assessments.*

In addition to the regular Maintenance Charges provided for in Section 5.01, the Association by vote of its board with the concurrence of its members as provided in its bylaws may levy in and for any year a special group assessment for the purpose of:

- (a) Defraying the cost of any new construction or reconstruction, unexpected repair or replacement of the roads and streets within the Subdivision, the water system serving the Subdivision, and capital improvements for and within common areas, including the necessary fixtures and personal property related thereto;
- (b) Defraying the cost of repairs or replacements resulting from an uninsured loss or damage or insured loss or damage to the roads and streets, water system, or capital improvements within the common area where there are insufficient insurance proceeds as provided for in the declaration; and
- (c) Responding to unusual or emergency needs of the Association as may be expected to occur from time to time.

Special group assessments shall be allocated and prorated among the owners of the lots at the date each such special group assessment is levied in the same manner as regular annual assessments are allocated and prorated among the owners of the lots under Section 5.01. Special group assessments may only be used for the purposes they were assessed.

Special group assessments shall be due and payable in full thirty (30) days following the date on which any such assessment due date is set by the board in the resolution adopting such assessment; except that, if it is specifically determined by the board that any such assessment is to be paid in deferred installments, then the payment dates and amounts of such installments shall be fixed in the resolution authorizing such assessment.

*Section 5.03. Use of Maintenance Charges.*

Maintenance Charges shall be used for the payment of the maintenance expenses incurred for the maintenance of the water system serving the Subdivision, streets, paths, parks, parkways, esplanades, recreational facilities located within the Subdivision, including all of the grass and planted area within boundaries of the streets, curbs, parks and recreational areas, furnishing of watchmen or patrol service, and doing any other thing necessary or desirable in the opinion of the Association, its successors or assigns, to keep the property neat or in good order, and the water system functioning in proper fashion, or which, in the opinion of the Association, its successors or assigns, may be of general benefit to the owners or occupants of the Subdivision.

*Section 5.04. Term of Charges and Fees.*

The Maintenance Charge shall be and remain in effect so long as the Unit Four Restrictions set out shall remain in effect and the continuation or extension of the Unit Four Restrictions in the manner provided therefor shall automatically extend the Maintenance Charge and any special group assessments.

Any grantee, by accepting a conveyance of any property in Unit Four, agrees and consents (i) to these Unit Four Restrictions, including the Maintenance Charge and any special group assessment, and (ii) that to secure the payment of the Maintenance Charge and any special group assessment, a lien in favor of the Association is retained against the property so conveyed.

Section 5.06. *Enforcement of Assessments.*

In the event that any assessment or installment thereof is not paid when due, and remains unpaid for a period of thirty (30) days thereafter, then the unpaid amount of any such assessment or installment thereof shall become delinquent and shall, together with interest thereon as herein provided and costs of collection thereof, become a continuing obligation and debt of the non-paying owner secured by a self-executing lien on the lot or subdivided portion thereof, including all improvements thereon, to which such assessment or installment thereof pertains. The Association shall have the right to reject any partial payment of any assessment or installment thereof and demand full payment thereof, or the Association may, in its sole discretion, elect to accept any such partial payment on account only, without in so doing waiving any rights established hereunder with respect to any remaining balance due.

The lien for any unpaid assessments shall be unaffected by any sale or transfer of full or partial ownership interest in a lot, or subdivided portion thereof, and shall continue in full force and effect. In the event of full or partial sale or transfer of an ownership interest in a lot, it shall be the sole obligation of the lot owner selling or transferring such interest (and not the Association) to disclose to any buyer or transferee that an unpaid assessment and associated lien against the ownership interest exist prior to the date at which such sale or transfer is to be consummated. A copy of such notice shall be sent to the Association at the same time. Upon written request, the Association shall provide a lot owner with a statement reflecting the amount of any unpaid or delinquent assessments with respect to a lot owned by said lot owner.

Section 5.07. *Interest on Delinquent Assessments Collection Procedures.*

The unpaid amount of any assessment shall bear interest from its due date at ten percent (10%) per annum or the maximum legal rate of interest then prevailing, whichever is less. In addition, the Association may elect to retain the services of any attorney of its choice for the purpose of collecting any unpaid assessment and interest charges thereon, and/or to foreclose the lien against the property subject thereto and/or to pursue any other legal or equitable remedy which the Association may have and there shall be added the amount of unpaid assessments and interest charges thereon, any and all collection costs incurred by the Association, whether judicial or non-judicial, and including, but not limited to, reasonable attorney fees and costs of legal suit.

Section 5.08. *Lien and Foreclosure.*

Upon delinquency, all sums assessed in the manner provided for in these Unit Four Restrictions, together with all interest costs as herein provided, shall be secured by the lien provided for under Section 5.05 of these Unit Four Restrictions. As further evidence and notice of such assessment lien, the Association may prepare a written notice of such lien setting forth the amount of delinquent indebtedness, the name of the owner of property covered by such lien, and a description of the property. Such notice, shall be signed by a duly authorized officer of the Association and shall be recorded in the office of the



County Clerk of Hays County, Texas, or such other place as may be required by law for the recording of liens affecting real property at such time as such notice is recorded. Such lien for payment of assessments shall attach from the date such payment becomes delinquent and may be enforced after recording said notice through (i) foreclosure of such lien on the lot, or subdivided portion thereof, and any improvements thereon in like manner as a mortgage on real property, (ii) suit against the owner obligated to pay the assessment and/or (iii) foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or non-judicial, the lot owner shall be required to pay the costs, expenses and reasonable attorneys' fees incurred by the Association. The Association shall have the power to bid on the property being foreclosed.

*Section 5.09. Lien Subordination.*

Any lien established as provided for in these Unit Four Restrictions shall be subordinate and inferior to any mortgage or deed of trust securing a purchase money note or in favor of any bank, savings and loan association, insurance company, pension fund, or other similar financial institution or other lender approved by the Association; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a foreclosure sale (whether public or private) of any such lot pursuant to the terms and conditions of any such mortgage or deed of trust. Such foreclosure sale shall not relieve any new lot owner taking title at such sale from liability for the amount of any assessments thereafter becoming due or from a lien arising from any such subsequent assessments.

At the time any mortgage financing or refinancing is obtained for any lot, which will be superior to any existing or future assessment lien of the Association, the owner of such lot shall within thirty (30) days prior to the consummation of any such mortgage or financing deliver to the Association written notice, identifying the lender making such mortgage loan, its term, its full legal name, its current address and telephone number, and the name of an officer or other person within the entity who is responsible for that particular loan account. Upon the written request of any such lender holding a superior lien on any lot as provided herein, the Association shall report to such lender any unpaid assessments which are delinquent as herein defined. The Association may from time to time, at its own initiative, elect to report delinquent assessments to such mortgage lenders.

*Section 5.10. Common Areas Exempt.*

All recreational areas and common areas dedicated on a recorded plat or otherwise, shall be exempt from any assessments and any lien created herein.

**VI.**

**MOUNTAIN CREST COMMUNITY ASSOCIATION**

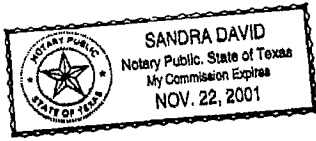
*Section 6.01. Creation of Association.*

The Mountain Crest Community Association (the "Association"), a nonprofit corporation, has been created and organized under the laws of the State of Texas. The Association is organized for the purpose of owning and operating, or otherwise providing for, a water system serving the Subdivision and neighboring areas, maintaining the Subdivision in good condition, receiving the Maintenance Charges and other assessments, and dispensing same for the common good of the Subdivision, enforcing the Modified Restrictions, the Unit Four Restrictions, and otherwise carrying out the responsibilities delegated to it under



1499 280

This instrument was acknowledged before me on February 2, 1999, by Chuck Rogers  
Homebuilder, Inc..



Sandra David

Notary Public, State of Texas

Notary's name (printed):

Notary's commission expires:

1499 281

AFTER RECORDING RETURN TO:

Chuck Rogers Homebuilder, Inc.  
P.O. Box 2047  
Wimberley, TX. 78676

PREPARED BY:

Robert R. Randolph  
Attorney at Law  
2701 First City Tower  
1001 Famin  
Houston, Texas 77002  
713/758-2380

FILED AND RECORDED  
OFFICIAL PUBLIC RECORDS

*Lee Carlisle*

2-3-99 04:03 PM 9902617  
ROSE \$47.00  
LEE CARLISLE, County Clerk  
HAYS COUNTY