

SCANNED



AFTER RECORDING RETURN TO:

Robert D. Burton
Armbrust & Brown, L.L.P.
100 Congress Ave., Suite 1300
Austin, Texas 78701



CIBOLO CANYONS RESORT
[UNIT-5]
DEVELOPMENT AREA DECLARATION

Bexar County, Texas

Declarant: Lumbermen's Investment Corporation, a Delaware corporation

Cross reference Cibolo Canyons Resort Master Covenant, recorded in Volume 11653 Page 922-996 and Document No. 20050216763 in the Official Public Records of Bexar County, Texas, and that certain Notice of Applicability of Cibolo Canyons Resort Master Covenant [Unit-5, Phase 1], recorded in Volume 11653 Page 1003-1068 and Document No. 20050216766, Official Public Records of Bexar County, Texas. The terms and provisions of the aforementioned documents also apply to the Development Area encumbered by this Development Area Declaration.

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CIBOLO CANYONS RESORT [UNIT-5]

DEVELOPMENT AREA DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

This Cibolo Canyons Resort [Unit-5] Development Area Declaration of Covenants, Conditions and Restrictions (the "**Declaration**") is made by Lumbermen's Investment Corporation, a Delaware corporation ("**Declarant**"), and is as follows:

RECITALS

A. Declarant is the owner of all Lots located within Cibolo Canyon Unit-5, Phase 1, a subdivision located in Bexar County, Texas, according to the map or plat recorded in Volume 9566, Pages 127-129, Official Public Records of Bexar County, Texas (collectively, the "**Development Area**").

B. Pursuant to that certain Notice of Applicability of Cibolo Canyons Resort Master Covenant [Unit-5, Phase 1], recorded in Volume 11653, Page 1003-1005 and Document No. 20050216766 in the Official Public Records of Bexar County, Texas, the Development Area is subject to the terms and provisions of that certain Cibolo Canyons Resort Master Covenant, recorded in Volume 11653, Page 92-996 and Document No. 20050216763 in the Official Public Records of Bexar County, Texas (the "**Master Covenant**").

C. The Master Covenant permits Declarant to file Development Area Declarations applicable to specific Development Areas, as those terms are used and defined in the Master Covenant, which shall be in addition to the covenants, conditions, and restrictions of the Master Covenant.

A Development Area is a portion of the Cibolo Canyons Resort which has actually been made subject to the terms and provisions of the Master Covenant and a Development Area Declaration. A Development Area may correspond to one or all of the lots reflected on a recorded plat. A Development Area Declaration includes specific restrictions which apply to the Development Area. In order to determine what restrictions apply to your lot, you must consult the terms and provisions of the Master Covenant, the terms and provisions of any notice of applicability covering your lot, the Development Area Declaration which includes the Development Area where your lot is located, and the Design Guidelines.

D. Declarant intends for this Development Area Declaration to serve as one of the Development Area Declarations permitted under the Master Covenant and desires that the Development Area described and identified in Recital A hereinabove shall constitute one of the Development Areas which is permitted, contemplated and defined under the Master Covenant.

E. Declarant desires to create upon the Development Area a residential community and carry out a uniform plan for the improvement and development of the Development Area for the benefit of the present and all future owners thereof.

F. Declarant desires to provide a mechanism for the preservation of the community and for the maintenance of common areas and, to that end, desires to subject the Development Area to the covenants, conditions, and restrictions set forth in this Development Area Declaration for the benefit of the Development Area, and each owner thereof, which shall be in addition to the covenants, conditions, and restrictions set forth in the Master Covenant.

NOW, THEREFORE, it is hereby declared: (i) that all of the Development Area shall be held, sold, conveyed, and occupied subject to the following covenants, conditions and restrictions which shall run with the Development Area and shall be binding upon all parties having right, title, or interest in or to the Development Area or any part thereof, their heirs, successors, and assigns and shall inure to the benefit of each owner thereof; and (ii) that each contract or deed which may hereafter be executed with regard to the Development Area, or any portion thereof, shall conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not the same are set out in full or by reference in said contract or deed; and (iii) that this Declaration shall supplement and be in addition to the covenants, conditions, and restrictions of the Master Covenant. In the event of a conflict between the terms and provision of this Development Area Declaration and the Master Covenant, the terms of the Master Covenant will control.

ARTICLE 1 DEFINITIONS

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

"Assessment" or **"Assessments"** means all assessment(s) imposed by the Association under the Master Covenant.

"Association" means the Cibolo Canyons Resort Community, Inc., a Texas non-profit corporation.

"Association Restrictions" means the Master Covenant, this Development Area Declaration, any rules adopted by the Cibolo Canyons Reviewer pursuant to *Section 6.05(b)* of the Master Covenant, any rules or regulations adopted by the Board pursuant to *Section 3.06(a)* of the Master Covenant and the Articles of Incorporation and Bylaws of the Association.

"Board" means the Board of Directors of the Association.

"Bylaws" means the bylaws of the Association, as amended from time to time.

"Cibolo Canyons Reviewer" means the person or entity having authority pursuant to the *Article 4* of the Master Covenant to review and approve plans for the construction, placement, modification, alteration or remodeling of any Improvements on any Lot.

"Declarant" means Lumbermen's Investment Corporation, a Delaware corporation, its successors or assigns; provided that any assignment(s) of the rights of Lumbermen's Investment Corporation, as Declarant, must be expressly set forth in writing and recorded in the Official Public Records of Bexar County, Texas.

The "Declarant" is the party who causes the Property to be developed for actual residential and commercial use. Declarant enjoys special privileges to help protect its investment in the Development and the Property. These special rights are described in the Master Covenant and this Declaration. Many of these rights do not terminate until either Declarant: (i) no longer owns any portion of the Property; or (ii) voluntarily terminates these rights by a written instrument recorded in the Official Public Records of Bexar County, Texas.

"Design Guidelines" means the standards for design, construction, landscaping, and exterior items placed on any Lot adopted pursuant to *Section 6.05(b)* of the Master Covenant, as amended.

"Development Area Declaration" means this instrument as it may be amended from time to time.

"Improvements" means every structure and all appurtenances of every type, whether temporary or permanent, including but not limited to buildings, outbuildings, sheds, patios, tennis courts, swimming pools, sport courts, garages, driveways, storage buildings, sidewalks, gazebos, signs, fences, gates, screening walls, retaining walls, stairs, decks, landscaping, landscape improvements, poles, mailboxes, signs, antennae, exterior air conditioning equipment or fixtures, exterior lighting fixtures, water softener fixtures or equipment, playground equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennae, towers, and other facilities used in connection with water, sewer, gas, electric, telephone, regular, satellite or cable television, other utilities, or otherwise.

"Lot" or **"Lots"** means one or more of the subdivided lots within the Development Area, other than Master Community Facilities and Special Common Area.

"Master Community Facilities" means property and facilities that the Association owns or in which it otherwise holds possessory or use rights for the common use or benefit of more than one Lot. The Master Community Facilities also include any property that the Association holds possessory rights under a lease, license or any easement in favor of the Association. Some Master Community Facilities will be for the common use and enjoyment of the Development Area's residents, e.g., subdivision swimming pools or internal pocket parks, while some portion

of the Master Community Facilities may be for the use and enjoyment of the public, e.g., open space, parks, and recreational facilities. Open space, parks, and recreational facilities dedicated to the public may be classified as Master Community Facilities under the Master Covenant to permit the Association to provide maintenance services to such facilities. No portion of any Master Community Facilities dedicated in whole or in part for public use may be designated as Special Common Area. Declarant, from time to time and at any time, may designate Master Community Facilities.

"Master Covenant" means that certain Cibolo Canyons Resort Master Covenant, recorded in Volume 11653 Page 92-996 and Document No. 20050216763 in the Official Public Records of Bexar County, Texas, as the same may be amended from time to time.

"Mortgage" or **"Mortgages"** means any mortgage(s) or deed(s) of trust securing indebtedness and covering any portion of the Development Area given to secure the payment of a debt.

"Mortgagee" or **"Mortgagees"** means the holder or holders of any Mortgage(s).

"Owner" or **"Owners"** means the person(s), entity or entities, including Declarant, holding all or a portion of the fee simple interest in any Lot, but shall not include the Mortgagee under a Mortgage prior to acquisition of its fee simple interest in such Lot pursuant to foreclosure of the lien of such Mortgage.

"Special Common Area" means any interest in real property or improvements which is designated by Declarant in a notice of applicability filed pursuant to *Section 10.05* of the Master Covenant, in a Development Area Declaration, or in any written instrument recorded by Declarant in the Official Public Records of Bexar County, Texas (which designation will be made in the sole and absolute discretion of Declarant) as common area which benefits one or more, but less than all of the Lots, Owners or Development Areas, and is or will be conveyed to the Association, or otherwise held by Declarant for the benefit of the Owners of property to which such Special Common Area benefits. The notice of applicability, Development Area Declaration, or written notice will identify the Lots, Owners or Development Areas benefited by such Special Common Area. By way of illustration and not limitation, Special Common Area might include such things as private roadways or gates, entry features, or landscaped medians which Declarant desires to dedicate for the exclusive use of certain Lots. All costs associated with maintenance, repair, replacement, and insurance of Special Common Area will be assessed as a Special Common Area Assessment against the Owners of the Lots to which the Special Common Area is assigned. No portion of any Master Community Facilities, which is open to the public use, may be designated as Special Common Area.

General Definitions. Unless the context specifies or requires otherwise, capitalized terms used but not defined in this Declaration are used and defined as they are used and defined in the Master Covenant.

**ARTICLE 2
GENERAL RESTRICTIONS**

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

2.01 Prior Declaration. The Development Area is subject to the terms and provisions of that certain Declaration of Restrictive Covenants, recorded as Document No. 20030003899 in the Official Public Records of Bexar County, Texas, as amended by that certain First Amendment to the Declaration of Restrictive Covenants, recorded as Document No. 20050038757 in the Official Public Records of Bexar County, Texas (collectively, the "**Prior Declaration**"). The Prior Declaration includes specific requirements pertaining to the use and development of Lots, including but not limited to: (i) limitations on impervious cover; (ii) the application of specific codes and ordinances to the Development Area; (iii) restrictions on the introduction or operation of certain features, e.g., underground storage tanks and private sewage facilities; and (iv) specific requirements for landscaping and the use of fertilizers, pesticides and herbicides. **EACH OWNER IS ADVISED TO REVIEW THE PRIOR DECLARATION PRIOR TO THE CONSTRUCTION OF ANY IMPROVEMENT WITHIN THE DEVELOPMENT AREA TO INSURE THEIR STRICT COMPLIANCE WITH THE TERMS AND PROVISIONS THEREOF.** This Development Area Declaration is not intended to modify the terms and provisions of the Prior Declaration and to the extent of any conflict between this Development Area Declaration and the Prior Declaration, the terms and provisions of the Prior Declaration will control.

2.02 Subdividing. No Lot shall be further divided or subdivided, nor may any easements or other interests therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Cibolo Canyons Reviewer; provided, however, that when Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot and convey any easements or other interests less than the whole, all without the approval of the Cibolo Canyons Reviewer.

2.03 Hazardous Activities. No activities may be conducted on or within the Development Area and no Improvements constructed on any portion of the Development Area which, in the opinion of the Cibolo Canyons Reviewer, are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks may be discharged upon any portion of the Development Area unless discharged in conjunction with an event approved in advance by the Board and no open fires may be lighted or permitted except within safe and well-designed fireplaces or in contained barbecue units while attended and in use for cooking purposes. No portion of the Development Area may be used for the takeoff, storage, or landing of aircraft (including, without limitation, helicopters) except for medical emergencies.

2.04 Insurance Rates. Nothing shall be done or kept on the Development Area which would increase the rate of casualty or liability insurance or cause the cancellation of any such

insurance on the Master Community Facilities, or the improvements located thereon, without the prior written approval of the Board.

2.05 Mining and Drilling. No portion of the Development Area may be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth. This provision will not be construed to prevent the excavation of rocks, stones, sand, gravel, aggregate, or earth or the storage of such material for use as fill provided that such activities are conducted in conjunction with the construction of Improvements and/or the development of the Development Area. Furthermore, this provision will not be interpreted to prevent the drilling of water wells approved in advance by the Cibolo Canyons Reviewer which are required to provide water to all or any portion of the Property or the Development. All water wells must also be approved in advance by any applicable regulatory authority.

2.06 Noise. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Development Area so as to be offensive or detrimental to any other portion of the Development Area or to its occupants. Without limiting the generality of the foregoing, if any noise or nuisance emanates from any Improvement on any Lot or the Association may (but shall not be obligated to) enter any such Improvement and take such reasonable actions necessary to terminate such noise (including silencing any burglar or break-in alarm).

2.07 Animals - Household Pets. No animals, including pigs, hogs, swine, poultry, fowl, wild animals, horses, cattle, sheep, goats, or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept, maintained, or cared for on or within the Development Area. No Owner may keep on such Owner's Lot more than three (3) cats and dogs, in the aggregate. No animal will be allowed to make an unreasonable amount of noise, or to become a nuisance, and no domestic pets will be allowed within the Development Area other than on the Lot of its Owner unless confined to a leash. No animal may be stabled, maintained, kept, cared for, or boarded for hire or remuneration within the Development Area, and no kennels or breeding operation will be allowed. No animal will be allowed to run at large, and all animals will be kept within enclosed areas which must be clean, sanitary, and reasonably free of refuse, insects, and waste at all times. All pet waste will be removed and appropriately disposed of by the Owner of the pet. All pets must be registered, licensed and inoculated as required by law.

2.08 Rubbish and Debris. No rubbish or debris of any kind may be placed or permitted to accumulate on or within the Development Area, and no odors will be permitted to arise therefrom so as to render all or any portion of the Development Area unsanitary, unsightly, offensive, or detrimental to any other property or to its occupants. Refuse, garbage, and trash must be kept at all times in covered containers, and such containers must be kept within enclosed structures or appropriately screened from view. Each Owner will contract with an independent disposal service to collect all garbage or other wastes, if such service is not provided by a governmental entity or the Association.

2.09 Maintenance. The Owners of each Lot shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep their entire Lot and all Improvements thereon in good condition and repair and in a well-maintained, safe, clean and attractive condition at all times. An Owner's "entire Lot" shall include, without limitation, any portion of such Lot upon which a subdivision perimeter fence has been constructed, or any portion of such Lot between such subdivision perimeter fence and any boundary line of such Lot. The Declarant has reserved the right under the Master Covenant to designate a portion of any Lot or Condominium Unit as a "Service Area". A Service Area designation may provide that the Association will assume responsibility for certain maintenance tasks otherwise allocated to an Owner e.g., yard maintenance. Nothing in this *Section 2.09* will be construed to limit the Declarant or the Association's ability to designate Service Areas or provide the maintenance services which would otherwise be the responsibility of an Owner. The Cibolo Canyons Reviewer, in its sole discretion, shall determine whether a violation of the maintenance obligations set forth in this *Section 2.09* has occurred. Such maintenance includes, but is not limited to the following, which shall be performed in a timely manner, as determined by the Cibolo Canyons Reviewer, in its sole discretion:

- (i) Prompt removal of all litter, trash, refuse, and wastes.
- (ii) Lawn mowing.
- (iii) Tree and shrub pruning.
- (iv) Watering.
- (v) Keeping exterior lighting and mechanical facilities in working order.
- (vi) Keeping lawn and garden areas alive, free of weeds, and attractive.
- (vii) Keeping planting beds free from turf grass.
- (viii) Keeping sidewalks and driveways in good repair.
- (ix) Complying with all government, health and police requirements.
- (x) Repainting of Improvements.
- (xi) Repair of exterior damage, and wear and tear to Improvements.

2.10 Antennae. Except as expressly provided below, no exterior radio or television antennae or aerial or satellite dish or disc, nor any solar energy system, shall be erected, maintained or placed on a Lot without the prior written approval of the Cibolo Canyons Reviewer; provided, however, that:

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

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

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

(collectively, (i) through (iii) are referred to herein as the “**Permitted Antennas**”) will be permitted subject to reasonable requirements as to location and screening as may be set forth in rules adopted by the Cibolo Canyons Reviewer, consistent with applicable law, in order to minimize obtrusiveness as viewed from streets and adjacent property. Declarant and/or the Association will have the right, but not the obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or any portion of the Development.

2.11 Location of Permitted Antennas. A Permitted Antenna may be installed solely on the Owner's Lot and shall not encroach upon any street, Master Community Facilities, Special Common Area, or any other portion of the Development Area. A Permitted Antenna shall be installed in a location on the Lot from which an acceptable quality signal can be obtained and where least visible from the street and the Development Area, other than the Lot. In order of preference, the locations of a Permitted Antenna which will be considered least visible by the Cibolo Canyons Reviewer are as follows:

(i) Attached to the back of the principal single-family residence constructed on the Lot, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Lots and the street; then

(ii) Attached to the side of the principal single-family residence constructed on the Lot, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Lots and the street.

The Cibolo Canyons Reviewer may, from time to time, modify, amend, or supplement the rules regarding installation and placement of Permitted Antennas.

Satellite dishes one meter or less in diameter, e.g., DirectTV or Dish satellite dishes, are permitted, HOWEVER, you are required to comply with the rules regarding installation and placement. These rules and regulations may be modified by the Cibolo Canyons Reviewer from time to time. Please contact the Cibolo Canyons Reviewer for the current rules regarding installation and placement.

2.12 Signs. No sign of any kind shall be displayed to the public view on any Lot without the prior written approval of the Cibolo Canyons Reviewer, except for:

- (i) signs which are permitted pursuant to the Design Guidelines or rules adopted by the Cibolo Canyons Reviewer;
- (ii) signs which are part of Declarant's overall marketing or construction plans or activities for the Development;
- (iii) permits as may be required by legal proceedings; and
- (iv) permits as may be required by any governmental entity.

2.13 Tanks. No underground or above-ground storage tanks are permitted within the Development, except for water tanks and swimming pool filtration tanks approved in writing by the Cibolo Canyons Reviewer, and if required, the San Antonio Water System. All permitted tanks must be screened from view in accordance with a screening plan approved in advance by the Cibolo Canyons Reviewer. This provision will not apply to a tank used to operate a standard residential gas grill.

2.14 Temporary Structures. No tent, shack, or other temporary building, improvement, or structure shall be placed upon the Development Area without the prior written approval of the Cibolo Canyons Reviewer; provided, however, that temporary structures necessary for storage of tools and equipment, and for office space for architects, builders, and foremen during actual construction may be maintained with the prior approval of Declarant, approval to include the nature, size, duration, and location of such structure. No shed, outbuilding, or other storage building may be erected on any Lot without the advance written approval of the Cibolo Canyons Reviewer, which approval may include requirements regarding placement, design, screening, and construction materials.

2.15 Unightly Articles; Vehicles. No article deemed to be unsightly by the Cibolo Canyons Reviewer shall be permitted to remain on any Lot so as to be visible from adjoining property or from public or private thoroughfares. Without limiting the generality of the foregoing, trailers, graders, trucks other than pickups, boats, tractors, campers, wagons, buses, motorcycles, motor scooters, all terrain vehicles and garden maintenance equipment shall be kept at all times, except when in actual use, in enclosed structures or screened from view and no repair or maintenance work shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in enclosed garages or other structures. Each single family residential structure constructed within the Development Area shall have sufficient garage space, as approved by the Cibolo Canyons Reviewer, to house all vehicles to be kept on the Lot. Notwithstanding the forgoing provision all terrain vehicles, motor scooters, and motorized mini-bikes may not be used on the Development Area or on any road or street within the Development Area. Lot Owners shall not keep more than two (2) automobiles in such manner as to be visible from any other portion of the Development Area for any period in excess of seventy-two (72) hours. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view, and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials, scrap,

refuse or trash shall be kept, stored, or allowed to accumulate on any portion of the Development Area except within enclosed structures or appropriately screened from view. No: (i) racing vehicles; or (ii) other vehicles (including, without limitation, motorcycles or motor scooters) which are inoperable or do not have a current license tag shall be permitted to remain visible on any Lot or to be parked on any roadway within the Development Area.

Unless a written waiver is obtained from the Board, recreational vehicles, i.e., motor homes, may only be temporarily parked within the Development Area for immediate loading and unloading. In no event may a recreational vehicle be stored within the Development Area.

No garage may be permanently enclosed or otherwise used for habitation unless approved in advance by the Cibolo Canyons Reviewer.

2.16 On Street Parking. No Owner or resident may park a vehicle on any road or street within the Development unless in the event of an emergency or as otherwise approved in writing by the Board. Guests and/or visitors may not park a vehicle on any road or street within the Development for more than twenty-four (24) consecutive hours unless in the event of an emergency or as otherwise approved in writing by the Board. "Emergency" for purpose of this *Section 2.16* means an event which jeopardizes life or property. "Parked" as used herein shall be defined as a vehicle left unattended for more than thirty (30) consecutive minutes.

2.17 Mobile Homes, Manufactured Homes, Travel Trailers and Recreational Vehicles. No mobile home (with or without wheels, temporarily or permanently affixed), manufactured home, travel trailer, or recreational vehicle may be parked or placed on any Lot or used as a residence, either temporary or permanent, at any time. In the event of any dispute regarding the effect or application of this *Section 2.17*, the interpretation of the Cibolo Canyons Reviewer will be final.

2.18 Basketball Goals. Permanent basketball goals are permitted on a Lot provided the basketball goal location and all materials are approved in advance and in writing by the Cibolo Canyons Reviewer. The basketball goal backboard must be constructed of a clear material, must be perpendicular to the street and mounted on a black metal pole permanently installed in the ground. Portable basketball goals are permitted provided the basketball goal location is approved by the Cibolo Canyon Reviewer and, if approved, is stored out-of-site when not in use. All basketball goals must be properly maintained and painted, with the net in good repair.

2.19 Compliance with Association Restrictions. Each Owner, his or her family, occupants of a Lot, tenants, and the guests, invitees, and licensees of the preceding shall comply strictly with the provisions of the Association Restrictions as the same may be amended from time to time. Failure to comply with any of the Association Restrictions shall constitute a violation of the Association Restrictions may result in a fine against the Owner in accordance with *Section 5.13* of the Master Covenant, and shall give rise to a cause of action to recover sums due for damages or injunctive relief, or both, maintainable by Declarant, the Manager, the

3.08 Rentals. Nothing in this Declaration shall prevent the rental of any Lot and the Improvements thereon by the Owner thereof for residential purposes; provided that all rentals must be for terms of at least twelve (12) months. All leases shall be in writing. The Owner must provide to its lessee copies of the Association Restrictions. Notice of any lease, together with such additional information as may be required by the Board, will be remitted to the Association by the Owner on or before the expiration of ten (10) days after the effective date of the lease. The Owner must provide to its lessee copies of the Association Restrictions.

3.09 Driveways. The design, construction materials, and location of: (i) all driveways, and (ii) culverts incorporated into driveways for ditch or drainage crossings, shall be approved by the Cibolo Canyons Reviewer. Each driveway must be wide enough to accommodate two automobiles parked side by side. The Cibolo Canyons Reviewer may establish design and materials requirements for all driveways and driveway culverts to insure that they are consistent in appearance throughout the Development Area.

3.10 Setbacks. Unless otherwise approved in advance by the Cibolo Canyons Reviewer, no residence may be constructed within twenty-five (25) feet of the front boundary line of a Lot, within fifteen (15) feet of the rear boundary line of a Lot or within five (5) feet of any side boundary line of a Lot. In the event of any disagreement regarding the location of the front, rear, or side boundary lines of a Lot, the decision of the Cibolo Canyons Reviewer will be final. For the purpose of this restriction, eaves, steps, and open porches will not be considered as part of a residence; however, this Section will not be construed to permit any portion of any Improvement on any Lot to encroach upon another Lot or other portion of the Development Area.

3.11 Address Markers. The location, design and materials used for address identification markers on each residence must be approved in advance of installation by the Cibolo Canyons Reviewer.

3.12 HVAC Location. No air-conditioning apparatus may be installed on the ground in front of a residence or on the roof of any residence. No window air-conditioning apparatus or evaporative cooler may be attached to any front wall or front window of a residence or at any other location where it would be visible from any street, any other Lot or any Master Community Facilities or Special Common Area. All HVAC units must be screened with either structural screening to match the exterior of the residence or landscaping, as approved by the Cibolo Canyons Reviewer.

3.13 Alteration or Removal of Improvements. Any construction, other than normal maintenance, which in any way alters the exterior appearance of any Improvement, or the removal of any Improvement shall be performed only with the prior written approval of the Cibolo Canyons Reviewer.

3.14 Trash Containers. Trash containers and recycling bins must be stored in one of the following locations:

- (i) inside the garage of the single-family residence constructed on the Lot; or
- (ii) Behind the single-family residence constructed on the Lot in such a manner that the trash container and recycling bin is not visible from any street, alley, or adjacent Lot.

The Cibolo Canyons Reviewer shall have the right to specify additional locations on each Owner's Lot in which trash containers or recycling bins must be stored.

3.15 Drainage. There shall be no interference with the established drainage patterns over any of the Development Area, including the Lots, except by Declarant, unless adequate provision is made for proper drainage and such provision has been certified by a professional engineer and approved in advance by the Cibolo Canyons Reviewer. Specifically, and not by way of limitation, no Improvement, including landscaping, may be installed which impedes the proper drainage of water between Lots.

3.16 Construction Activities. This Declaration will not be construed or applied so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner (including Declarant) upon or within the Development. Specifically, no such construction activities will be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. In the event that construction upon any Lot does not conform to usual practices in the area as determined by the Cibolo Canyons Reviewer in its sole and reasonable judgment, the Cibolo Canyons Reviewer will have the authority to seek an injunction to stop such construction. In addition, if during the course of construction upon any Lot there is excessive accumulation of debris of any kind which would render the Lot or any portion thereof unsanitary, unsightly, offensive, or detrimental to it or any other portion of the Development, then the Cibolo Canyons Reviewer may contract for or cause such debris to be removed, and the Owner of the Lot will be liable for all reasonable expenses incurred in connection therewith.

3.17 Landscaping. Each Owner shall be required to install landscaping upon such Owner's Lot in accordance with landscaping plans approved in advance of installation by the Cibolo Canyons Reviewer. Notwithstanding any provision in this Declaration to the contrary, such landscaping plans must be approved by the Cibolo Canyons Reviewer prior to occupancy of the single family residential structure located on the Lot to which such landscaping plans relate. All landscaping shown on the landscaping plans and specifications approved by the Cibolo Canyons Reviewer shall be installed, and all such landscaping shall be completed, on or before three (3) months after the landscaping plans have been approved by the Cibolo Canyons Reviewer, unless approved in advance by the Cibolo Canyons Reviewer. The front, rear and sides of each Lot shall be landscaped and irrigated as required by the Design Guidelines or the Cibolo Canyons Reviewer. In addition, the landscaping on each Lot shall include the installation of at least two (2) 3" caliper hardwood trees, unless otherwise approved by Cibolo Canyons Reviewer (the "**Required Trees**"); provided, however, for corner Lots, three (3) 3"

caliper hardwood trees shall be required. The Required Trees shall be selected from a tree list approved by the Cibolo Canyons Reviewer. Existing hardwood trees may be credited for the Required Trees hereunder if the existing trees satisfy the caliper requirements and are reflected on the tree list approved by the Cibolo Canyons Reviewer. The Cibolo Canyons Reviewer or its assigns shall be entitled to make recommendations with respect to tree disease control, whereupon the Owner or Owners to whom such recommendations are directed shall be obligated to comply with such recommendations, which may include, but not be limited to tree removal and replacement.

3.18 Sight Distance at Intersection. No fence, wall, hedge, or planting that obstructs sight lines at elevations between two feet and nine feet above the roadway may be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at a point thirty (30) feet from the intersection of the street lines or, in the case of a rounded property corner, from the intersection of the street property lines as extended. The same sight-line limitations will apply on any Lot within the triangular area formed by the street line, the driveway or alley line and a line connecting them at a point ten feet from the intersection of a street property line with the edge of a driveway or alley pavement. All tree foliage within such distances of intersections must be maintained to meet the sight-line requirements set forth above. Notwithstanding the foregoing or anything in this Development Area Declaration to the contrary, all sight distances required by any applicable governmental authority must be complied with.

3.19 Roofing. The pitch, color and composition of all roof materials shall be expressly approved by the Cibolo Canyons Reviewer.

3.20 Swimming Pools. Any swimming pool constructed on a Lot must be enclosed with a fence or other enclosure device completely surrounding the swimming pool which, at a minimum, satisfies all applicable governmental requirements. Nothing in this *Section 3.20* is intended or shall be construed to limit or affect an Owner's obligation to comply with any applicable governmental regulations concerning swimming pool enclosure requirements. Above-ground or temporary swimming pools are prohibited.

3.21 Retaining Walls. Each Owner who acquires a Lot with the intent of constructing a residence thereon for sale to a third-party (i.e., a homebuilder) shall be obligated, at its sole cost and expense, to construct any retaining wall which may be required by the Cibolo Canyons Reviewer to be constructed on such Owner's Lot. Any retaining wall proposed to be constructed within the Development Area shall be constructed in accordance with specifications set forth by the Cibolo Canyons Reviewer, and shall in any case be approved in advance by the Cibolo Canyons Reviewer.

3.22 Single-Story Restriction for Residences Adjacent to Arterials. Any residence constructed on a Lot located immediately adjacent to Cibolo Canyon Blvd. (as such street may be renamed from time to time) shall be single-story only; provided, however, with the advance approval of the Cibolo Canyons Reviewer, a two-story residence may be constructed in a Lot

located immediately adjacent to Cibolo Canyon Blvd. IF the residence is located no less than fifty-feet (50') from the rear boundary line of the Lot.

3.23 Square Footage. The square footage for each residence, exclusive of open or screened porches, terraces, patios, decks, driveways, and garages, shall be no less than 3,000 square feet, and no more than 4,900 square feet. Notwithstanding the foregoing, as provided in Section 6.05(d) of the Master Covenant, the Cibolo Canyons Reviewer may grant variances from compliance with any of the provisions of this Declaration, including, but not limited to, restrictions upon the minimum and maximum square footage of any residence constructed on a Lot within the Development Area, when, in the opinion of the Cibolo Canyons Reviewer, in its sole and absolute discretion, such variance is justified.

3.24 Impervious Cover. Each Lot within the Development Area is hereby allocated, and shall not exceed, 4,600 square feet of impervious cover. "Impervious Cover" for the purpose of the Association Restrictions means the definition set forth in the Prior Declaration. The Prior Declaration defines impervious cover as roads, parking areas, buildings, pools, patios, sheds, driveways, private sidewalks and other impermeable construction covering any Lot; provided, however, that for the purpose of calculating the amount of impervious cover incorporated into any Lot, the impervious cover attributable to any sidewalk or driveway apron serving the Lot and located within the street right-of-way is excluded. The Cibolo Canyons Reviewer or the Declarant (during the Development Period) may increase the impervious cover allocated to a particular Lot. However, each Owner is advised that exceeding the impervious cover allocated to a particular Lot WITHOUT the advance written approval of the Cibolo Canyons Reviewer or the Declarant, may require the removal of the excess impervious cover at the Owner's sole cost and expense. In addition, exceeding the impervious cover allocated to a Lot WITHOUT the advance written approval of the Cibolo Canyons Reviewer or the Declarant will constitute a violation of the terms and provisions of the Prior Declaration and the Master Restrictions which, in addition to any other remedy for violation of the Prior Declaration or Master Restrictions, may result in the requirement that impervious cover be removed from the Lot (which would include demolition of an existing Improvement of any portion thereof) and may result in a fine levied against the Owner of the Lot.

WARNING
THE AMOUNT OF IMPERVIOUS COVER WHICH MAY BE INCORPORATED INTO YOUR LOT IS LIMITED. IF YOU EXCEED THE ALLOCATION, YOU WILL HAVE VIOLATED THE TERMS AND PROVISIONS OF THE MASTER RESTRICTIONS AND THE PRIOR DECLARATION. EXCEEDING THE IMPERVIOUS COVER ALLOCATED TO YOUR LOT MAY EXPOSE YOU TO CIVIL LIABILITY.

4.01 Insurance. Each Owner shall be required to maintain insurance on the Improvements located upon such Owner's Lot, providing fire and extended coverage and all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for Improvements similar in construction, location and use. Such insurance policies

shall be for the full insurable value of the Improvements constructed upon each Lot, shall contain extended coverage and replacement costs endorsements, if reasonably available, and may also contain vandalism and malicious mischief coverage, special form endorsement, a stipulated amount clause and a determinable cash adjustment clause. The shall not be required to maintain insurance on the Improvements constructed upon any Lot. The Association may, however, cause to be obtained such insurance as it may deem necessary, including but not limited to such policies of liability and property damage insurance as the Board in its discretion may deem necessary. Insurance premiums for such policies shall be a common expense to be included in the assessments levied by the Association, as the case may be. The acquisition of insurance by the Association shall be without prejudice to the right and obligation of any Owner to obtain additional individual insurance.

4.02 Restoration. In the event of any fire or other casualty, the Owner shall promptly repair, restore and replace any damaged or destroyed structures to their same exterior condition existing prior to the damage or destruction thereof. Such repair, restoration or replacement shall be commenced and completed in a good and workmanlike manner using exterior materials identical to those originally used in the structures damaged or destroyed. To the extent that the Owner fails to commence such repair, restoration or replacement of substantial or total damage or destruction within thirty (30) days after the occurrence of such damage or destruction, and thereafter prosecute same to completion, or if the Owner does not clean up any debris resulting from any damage within thirty (30) days after the occurrence of such damage, the Association may commence, complete or effect such repair, restoration, replacement or clean-up, and such Owner shall be personally liable to the Association for the cost of such work; provided, however, that if the Owner is prohibited or delayed by law, regulation or administrative or public body or tribunal from commencing such repair, restoration, replacement or clean-up, the rights of the Association under this sentence shall not arise until the expiration of thirty (30) days after such prohibition or delay is removed. If the Owner fails to pay such cost upon demand by the Association, the cost thereof (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, than at the rate of one and one-half percent (1-1/2%) per month) shall be assessed against and chargeable to the Owner's Lot(s). Any such amounts assessed and chargeable against a Lot shall be secured by the liens reserved in the Master Covenant for Assessments and may be collected by any means provided in the Master Covenant for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot(s). **EACH SUCH OWNER SHALL INDEMNIFY AND HOLD HARMLESS THE ASSOCIATION, AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF THE ASSOCIATION'S ACTS OR ACTIVITIES UNDER THIS SECTION 4.02, EXCEPT FOR SUCH COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR COST OF ACTION ARISING BY REASON OF THE ASSOCIATION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" AS USED HEREIN DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE.**

4.03 Mechanic's and Materialmen's Lien. Each Owner whose structure is repaired, restored, replaced or cleaned up by the Association pursuant to the rights granted under this *Article 4*, hereby grants to the Association an express mechanic's and materialmen's lien for the reasonable cost of such repair, restoration, or replacement of the damaged or destroyed Improvement to the extent that the cost of such repair, restoration or replacement exceeds any insurance proceeds allocable to such repair, restoration or replacement and delivered to the Association. Upon request by the Board and before the commencement of any reconstruction, repair, restoration or replacement, such Owner shall execute all documents sufficient to effectuate such mechanic's and materialmen's lien in favor of the Association.

ARTICLE 5 MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Lots within the Development Area. The provisions of this Article apply to this Declaration and the Bylaws of the Association.

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

(i) Any condemnation loss or any casualty loss which affects a material portion of the Development Area or which affects any Lot on which there is an Eligible Mortgage held, insured, or guaranteed by such Eligible Mortgage Holder; or

(ii) Any delinquency in the payment of assessments or charges owed for a Lot subject to the Mortgage of such Eligible Mortgage Holder, where such delinquency has continued for a period of sixty (60) days, or any other violation of this Declaration relating to such Lot or the Owner or occupant which is not cured within sixty (60) days; or

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

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

5.02 Examination of Books. The Association shall permit Mortgagees to examine the books and records of the Association during normal business hours.

5.03 Taxes, Assessments and Charges. All taxes, assessments and charges that may become liens prior to first lien mortgages under applicable law shall relate only to the individual Lots and not to any other portion of the Development Area.

**ARTICLE 6
DEVELOPMENT**

6.01 Addition of Land. Declarant may, at any time and from time to time, add additional land to the Development Area and, upon the filing of a notice as hereinafter described, such land shall be considered part of the Development Area for purposes of this Declaration, and such land shall be subject to the terms, covenants, conditions, restrictions and obligations set forth in this Declaration, and the rights, privileges, duties and liabilities of the persons subject to this Declaration shall be the same with respect to such added land as with respect to the land originally covered by this Declaration. To add land to the Development Area, Declarant shall be required only to record in the Official Public Records of Bexar County, Texas, a notice of addition of land (which notice may be contained within any notice of applicability filed pursuant to *Section 10.05* of the Master Covenant) containing the following provisions:

- (A) A reference to this Declaration, which will include the recordation information thereof;
- (B) A statement that such land shall be considered Development Area for purposes of this Declaration, and that all of the terms, covenants, conditions, restrictions and obligations of this Declaration shall apply to the added land; and
- (C) A legal description of the added land.

6.02 Withdrawal of Land. Declarant may, at any time and from time to time, reduce or withdraw land from the Development Area and remove and exclude from the burden of this Declaration: (i) any portion of the Development Area which has not been included in a plat; (ii) any portion of the Development Area included in a plat if Declarant owns all Lots described in such plat; and (iii) any portion of the Development Area included in a plat even if Declarant does not own all Lot(s) described in such plat, provided that Declarant obtains the written consent of all other Owners of Lot(s) described in such plat. Upon any such withdrawal and renewal this Declaration and the covenants conditions, restrictions and obligations set forth herein shall no longer apply to the portion of the Development Area withdrawn. To withdraw lands from the Development Area hereunder, Declarant shall be required only to record in the Official Public Records of Bexar County, Texas, a notice of withdrawal of land containing the following provisions:

- (A) A reference to this Declaration, which will include the recordation information thereof;
- (B) A statement that the provisions of this Declaration shall no longer apply to the withdrawn land; and
- (C) A legal description of the withdrawn land.

ARTICLE 7
GENERAL PROVISIONS

7.01 Duration. This Declaration and the covenants, conditions, restrictions, easements, charges, and liens set out herein shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association and every Owner, including Declarant, and their respective legal representatives, heirs, successors, and assigns, for a term beginning on the date this Declaration is recorded in the Official Public Records of Bexar County, Texas, and continuing through and including January 1, 2051, after which time this Declaration shall be automatically extended for successive periods of ten (10) years unless a change (the word "change" meaning a termination, or change of term or renewal term) is approved by in a resolution adopted by members of the Association, entitled to cast at least seventy percent (70%) of the total number of votes of the Association, voting in person or by proxy at a meeting duly called for such purpose, written notice of which shall be given to all Members at least thirty (30) days in advance and shall set forth the purpose of such meeting; provided, however, that such change shall be effective only upon the recording of a certified copy of such resolution in the Official Public Records of Bexar County, Texas. Notwithstanding any provision in this *Section 7.01* to the contrary, if any provision of this Declaration would be unlawful, void, or voidable by reason of any Texas law restricting the period of time that covenants on land may be enforced, such provision shall expire (twenty one) 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

7.02 Amendment. This Declaration may be amended or terminated by the recording in the Official Public Records of Bexar County, Texas, of an instrument setting forth the amendment executed and acknowledged by (i) Declarant, acting alone; or (ii) Declarant and a majority of the Owners of Lots within the Development Area with each Lot being allocated one (1) vote. Specifically, and not by way of limitation, Declarant may unilaterally amend this Development Area Declaration: (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on any Lot or Condominium Unit; (c) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on Lots and/or Condominium Units; or (d) to comply with any requirements promulgated by a local, state or governmental agency, including, for example, the Department of Housing and Urban Development.

7.03 Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third (3rd) day (other than a Saturday, Sunday, or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person in writing to the Secretary of the Association for the purpose of service of notices, or to the residence located on the Lot owned by such person if no address has been given to the Secretary of the Association. Such

address may be changed from time to time by notice in writing given by such person to the Secretary of the Association.

7.04 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of the Development Area, provided, however, that the provisions of this Declaration shall not be held to impose any restriction, condition or covenant whatsoever on any land owned by Declarant other than the Development Area. This Declaration shall be construed and governed under the laws of the State of Texas.

7.05 Gender. Whenever the context shall so require, all words herein in the male gender shall be deemed to include the female or neuter gender, all singular words shall include the plural, and all plural words shall include the singular.

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

7.07 Enforcement and Nonwaiver.

- (a) Except as otherwise provided herein, any Owner of a Lot, at such Owner's own expense, Declarant and the Association shall have the right to enforce all of the provisions of this Declaration. The Association may initiate, defend or intervene in any action brought to enforce any provision of this Declaration. Such right of enforcement shall include both damages for and injunctive relief against the breach of any provision hereof.
- (b) Every act or omission whereby any provision of the Association Restrictions is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated by any Owner of a Lot (at such Owner's own expense), Declarant or the Association.
- (c) Any violation of any federal, state, or local law, ordinance, or regulation pertaining to the ownership, occupancy, or use of any portion of the Development Area is hereby declared to be a violation of this Declaration and subject to all of the enforcement procedures set forth herein.
- (d) The failure to enforce any provision of the Association Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of the Association Restrictions.

7.08 Construction. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion hereof shall not affect the validity or enforceability of any other provision. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of the paragraphs, sections, or articles hereof.

[SIGNATURE PAGE FOLLOWS]

EXECUTED to be effective the 13th day of SEPT., 2005.

DECLARANT:

LUMBERMEN'S INVESTMENT CORPORATION, a Delaware corporation

By: 

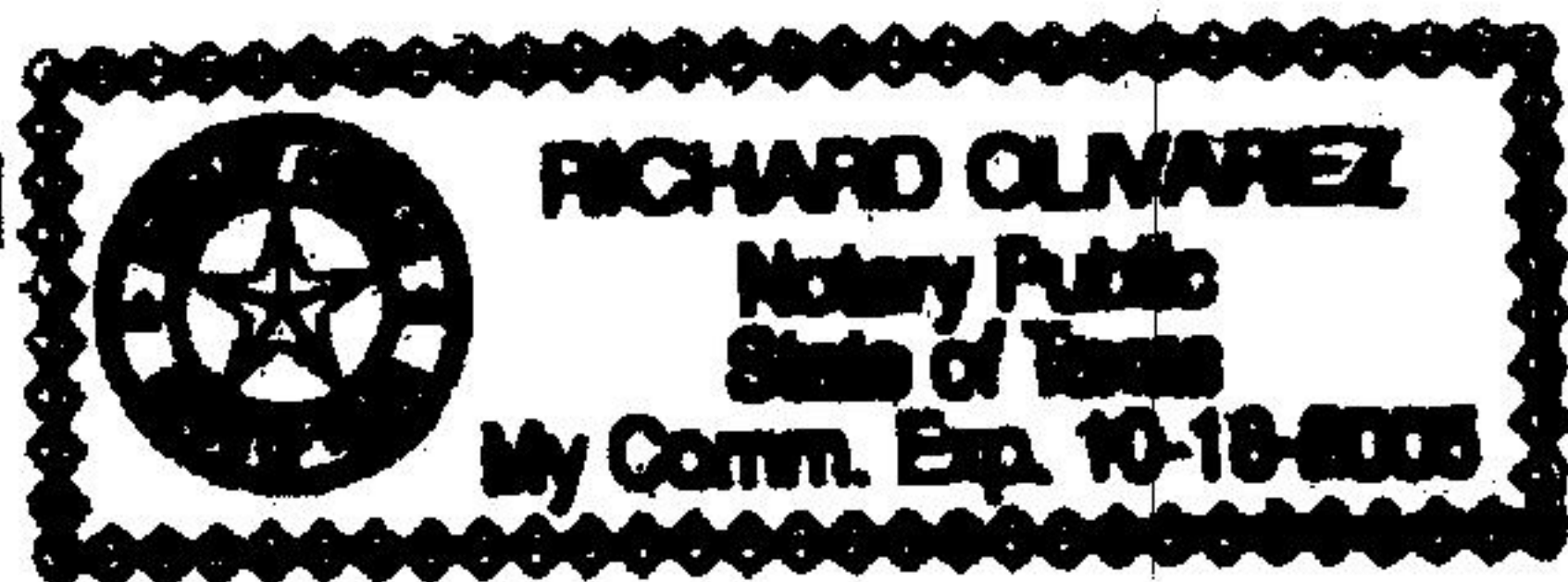
Printed Name: John Pierret

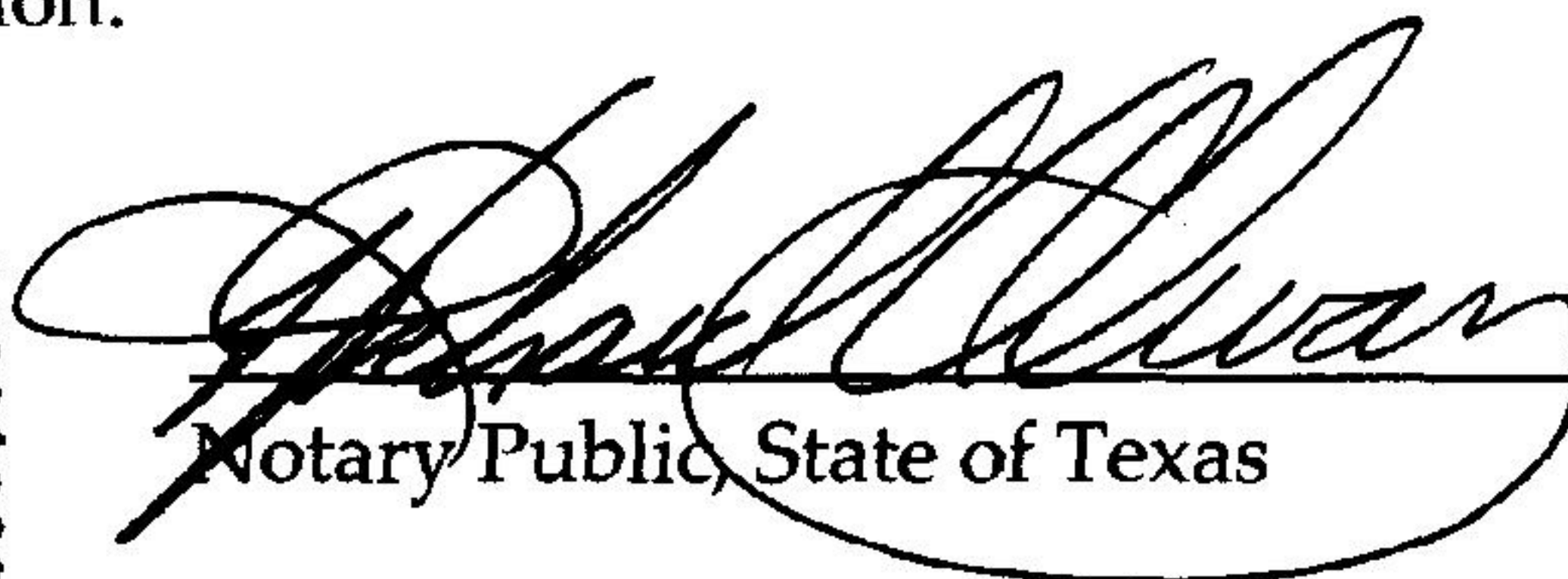
Title: Executive Vice President

STATE OF TEXAS §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the 13th day of SEPTEMBER 2005, by John Pierret, Executive Vice President of Lumbermen's Investment Corporation, a Delaware corporation, on behalf of such corporation.

[seal]



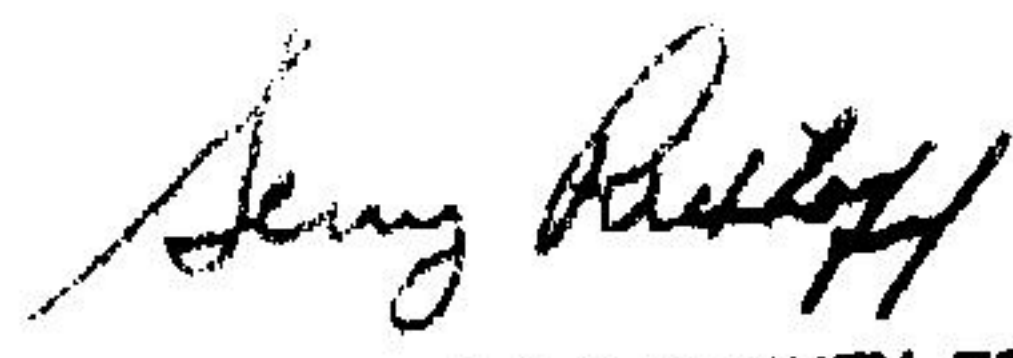

Notary Public, State of Texas

Doc# 20050216803 Fees: \$128.00
09/21/2005 8:52AM # Pages 29
Filed & Recorded in the Official Public
Records of BEXAR COUNTY
GERRY RICKHOFF COUNTY CLERK

any provision herein which restricts the sale, or use of the described real property because of race is invalid and unenforceable under Federal law
STATE OF TEXAS, COUNTY OF BEXAR
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Record of Real Property of Bexar County, Texas on:

SEP 21 2005




COUNTY CLERK BEXAR COUNTY, TEXAS