

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
EDGEWATER SUBDIVISION

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EDGEWATER
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**EDGEWATER
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

THE STATE OF TEXAS §
 §
COUNTY OF BEXAR §

WITNESSETH

WHEREAS, **TOLL TX, L.P.**, a Texas limited partnership (hereinafter called "Declarant"), is the owner of all of Cadillac Lake Estates (sometimes hereinafter referred to as "Edgewater Subdivision"), a subdivision of record in Bexar County, according to the map or plat thereof recorded in Volume 9551, Page 34, Deeds and Plat Records, Bexar County, Texas (the "Property");

WHEREAS, the purpose of this instrument is to guard against the erection of poorly designed or proportioned structures and the use of unsuitable materials, to encourage and secure the erection of attractive improvements which are harmonious with their sites; and

WHEREAS, Declarant desires to create and carry out a uniform plan for the improvement, development and sale of the Property for the benefit of the present and future owners of the Property, and, in furtherance thereof, Declarant hereby adopts and establishes the following declaration of covenants, conditions and restrictions to apply uniformly to ownership, encumbrance, lease, use, occupancy, enjoyment and conveyance of the Property;

NOW, THEREFORE, it is hereby declared that all of the Property shall be owned, encumbered, leased, used, occupied, enjoyed, and conveyed subject to the following covenants, conditions and restrictions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and shall be binding on all parties having the right, title or interest in or to the property or any part thereof, their heirs, administrators, legal representatives, successors and assigns, and shall inure to the benefit of the owner thereof.

**ARTICLE 1
DEFINITIONS**

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

1.1 Architectural Committee. "Architectural Committee" shall mean the committee created pursuant to this Declaration as provided in Article 3 hereof.

1.2 Articles. "Articles" shall mean the Articles of Incorporation of the Association, which have been filed in the office of the Secretary of State of the State of Texas, as the Articles may from time to time be amended.

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1.3 Assessment(s). "Assessment(s)" shall mean assessment(s) levied by the Association and includes both regular and special assessment(s) as provided in Article 5 hereof.

1.4 Association. "Association" shall mean Edgewater Homeowner's Association, Inc., a Texas non-profit corporation.

1.5 Beneficiary. "Beneficiary" shall mean a mortgagee or a beneficiary under a deed of trust.

1.6 Board. "Board" shall mean the Board of Directors of the Association.

1.7 Building. "Building" shall mean a structure, including a residence, having a roof supported by columns or walls for the shelter, support or enclosure of persons or property.

1.8 Bylaws. "Bylaws" shall mean the Bylaws of the Association which are attached hereto as Exhibit "A".

1.9 Common Area. "Common Area" shall mean (i) Lots 81 and 82, Block 2, and Lots 83, 84, and 85, Cadillac Lake Estates (herein referred to as "Edgewater Subdivision") a subdivision of record in Bexar County, according to the map or plat thereof recorded in Volume 9551, Page 34, Deeds and Plat Records, Bexar County, Texas and Lot 147, Block 1, New City Block 17005, Churchill Estates Subdivision Unit 9, according to the map or plat thereof recorded in Volume 9512, Pages 8-10, Deed and Plat Records, Bexar County, Texas, and (ii) all joint use access easements and drainage easements shown on the recorded plats of the Subdivision.

1.10 Declarant. "Declarant" shall mean Toll TX, L.P., a Texas limited partnership, and its duly authorized representatives and successors or assigns; provided, however, any assignment of the rights of Declarant must be expressly set forth in a written instrument recorded in the Official Public Records of Bexar County, Texas. The mere conveyance of a portion of the Property without such a written, recorded assignment of the rights of the Declarant shall not be sufficient to constitute an assignment of the rights of the Declarant hereunder.

1.11 Declaration. "Declaration" shall mean this instrument, as this instrument may from time to time be amended or supplemented.

1.12 Greenbelt Lots. Lots 82, Block 2, and Lots 83, 84 and 85, are hereby designated "Greenbelt Lots" in addition to being part of the Common Area.

1.13 Improvement. "Improvement" shall mean every structure and all appurtenances thereto of every type and kind, including but not limited to Buildings, outbuildings, storage sheds, patios, tennis courts, swimming pools, garages, storage buildings, playscapes, treehouses, swing sets, fences, screening walls, retaining walls, stairs, steps, porches, mailboxes, walkways, driveways, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment, exterior lighting fixtures and equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennae, aerials, satellite dishes, wind generators, solar collectors, towers

and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, and other utilities.

1.14 Lot(s). "Lot" or "Lots" shall mean the lot or lots of land within the Property as established on the plat for the Subdivision.

1.15 Manager. "Manager" shall mean the person, firm or corporation, if any, employed by the Association pursuant to this Declaration and delegated the duties, powers, and functions of the Association as provided in Section 4.5(c) hereof.

1.16 Member. "Member" shall mean any person or entity who is a member of the Association.

1.17 Mortgage. "Mortgage" shall mean any mortgage or deed of trust covering any portion of the property, including and Lot or Lots, voluntarily given by an owner to secure the payment of a debt.

1.18 Owner(s). "Owner(s)" shall mean any person or entity, including the Declarant, holding record legal title to a fee simple interest in any portion of the Property, including any Lot or Lots, but shall not include any beneficiary whose sole interest in the Property or a portion thereof is derived from a Mortgage.

1.19 Plans and Specifications. "Plans and Specifications" shall mean any and all documents designed to guide or control the construction, alteration or removal of any Improvement, including but not limited to those indicating location, size, shape, configuration, materials including roofing materials, site plans, excavation plans, grading plans, foundation plans, drainage plans, landscaping plans, fencing plans, screening plans, elevation drawings, floor plans, exterior lighting plans, specifications on all building products, and construction techniques, samples of exterior colors and materials, plans for utility services, and all other documentation or information relevant to such construction m alteration or removal.

1.20 Subdivision. "Subdivision" shall collectively mean all of Cadillac Lake Estates (herein referred to as "Edgewater Subdivision") a subdivision of record in Bexar County, according to the map or plat thereof recorded in Volume 9551, Page 34, Deeds and Plat Records, Bexar County, Texas and Lot 147, Block 1, New City Block 17005, Churchill Estates Subdivision Unit 9, according to the map or plat thereof recorded in Volume 9512, Pages 8-10, Deed and Plat Records, Bexar County, Texas.

ARTICLE 2 RESTRICTIONS

Except for the Common Areas, all of the Property shall be owned, encumbered, leased, used, occupied, enjoyed, and conveyed subject to the following limitations and restrictions:

1.1 Residential Use; Construction, Alteration or Removal of Improvements.

(a) All lots shall be improved and used solely for single family residential use and accessory uses, including, without limitation, a garage, fencing and such other improvements as are necessary or customarily incident to residential use. No manufacturing, trade, business, commerce, industry, profession or other occupation whatsoever may be conducted or carried on in any portion of the Property or in any improvement thereon. Notwithstanding the foregoing, Owners may work from home provided that there is no storage of inventory for sale, retail business conducted, or client and/or visitor meetings incidental to business conducted in any Building. No improvement constructed on a Lot may be used as an apartment house, flat, lodging house or hotel, but such improvements may be leased for single-family residential purposes for a minimum term of six (6) months.

(b) No improvement may be constructed, altered or removed upon or for any of the Property without the prior written approval of the Architectural Committee. Any action, other than normal maintenance, which in any way alters the exterior appearance of any improvement, including, without limitation, its color, or which involves the removal of any Improvement or the alteration of the landscaping on a Lot, shall be performed only with the prior approval of the Architectural Committee.

(c) No Improvement may be constructed on any Lot which would unnecessarily obstruct the view from other portions of the Property; and the positioning of all Improvements upon all Lots is hereby expressly made subject to Architectural Committee review. The Architectural Committee may prevent or allow the construction of a proposed Improvement based upon the effect it will have upon the view from any particular lot; provided, however, notwithstanding anything to the contrary in this Declaration, the Architectural Committee, the members thereof and the Board shall not be liable to any Owner for monetary damages or otherwise due to the construction of any Improvement within the Property or the creation thereby of an obstruction to the view from such Owner's Lot or Lots. No Improvement shall be allowed on any Lot that is of such size or Architectural design or that involves the use of such landscaping, color schemes, exterior finishes and materials and similar features as to be incompatible with the residential development in the Subdivision and the surrounding area.

2.2 Building Height. No Improvement greater than thirty-five feet (35') in Height may be constructed on any Lot. For purposes of this Section 2.2, Height means the vertical distance from the "foyer" or "entry level floor" of a Building to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable on a pitched or hipped roof, or if none of the preceding, then to the highest point of the Improvement.

2.3 Building Materials; Natural Building Materials Required for Certain Lots; Residence Size; Mailboxes.

(a) All single family residences shall be of recognized standard construction quality, and shall be constructed of one hundred percent (100%) of the area of each residence's front, rear and sides (exclusive of areas above the roof line) shall be covered with masonry or

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other material specifically approved in writing by the Architectural Committee. Roofing materials must be of high grade and quality and consistent with the exterior design, color and appearance of other Improvements within the Property. At a minimum, 25-year guaranteed roofing material shall be required. All windows shall contain clear or slightly tinted, non-reflective glass. Masonry shall include hardi-plank siding.

(b) Each single-family residence constructed on the Property shall contain not less than two thousand five hundred (2,500) square feet of enclosed living space, exclusive of porches and patios (open or covered), decks and garages.

(c) If a collective mailbox arrangement is not utilized for all of the Subdivision, any housing for individual mailboxes constructed in front of a residence shall be architecturally integrated with the residence, which such mailbox is to serve and shall be of similar construction and form to such residence.

2.4 Governmental Requirements. All improvements and construction shall comply with all applicable governmental laws, ordinances and regulations.

2.5 Subdividing. No Lot shall be further divided or subdivided, nor may any easements or other interests therein less than the Owner convey the whole thereof without the prior written approval of the Architectural Committee; provided, however that when Declarant is the Owner thereof Declarant may further divide and subdivide any Lot and convey an easement or other interest less than the whole all without the approval of the Architectural Committee. Notwithstanding the foregoing, there shall never be allowed more than eighty (80) Lots located in the Subdivision for single family residential purposes.

2.6 Signs. Except for the permanent entrance sign for the Subdivision, no sign of any kind shall be displayed to the public view with out the prior written approval of the Architectural Committee, except for signs which are part of Declarant's overall marketing plan for the Property. The Architectural Committee may permit signs of any type advertising portions of the Property for sale or lease and it may set standards for the same.

2.7 Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property or any portion thereof unsanitary, unsightly, offensive, or detrimental to any other property or to its occupants. Refuse, garbage and trash shall be kept at all times in covered containers and all such containers shall at all times be kept within an enclosed structure or appropriately screened form view of all adjacent property and public and private rights-of-way; provided, however, garbage containers shall be permitted to be placed outside of enclosed structures and may be removed from screened areas a maximum of two (2) times each week, for no longer than twelve (12) hours each time, for garbage collection.

2.8 Noise; Nuisances. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or its occupants. No noxious or offensive activity shall be conducted on any portion of the Property. The Board, in its sole discretion, shall determine whether an action or activity constitutes a violation of this Section 2.8.

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2.9 Condition and Repair of Improvements and Landscaping. All Improvements upon the Property shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner thereof. All windows in any Improvement on the Property shall have draperies, blinds or shutters in stalled by the resident or Owner thereof. All landscaping shall at all times be kept in neat and well groomed condition and appearance, with all trees, shrubs and plantings properly pruned, yards regularly mowed, edged and raked and all areas kept free of trash, debris, weeds and overgrowth. Each Owner shall keep all trees, shrubs, grass, and plantings in such Owner's Lot or Lots free of disease and insects consistent with good horticultural practice. Without limiting the generality of the foregoing each Owner shall promptly treat oak trees on their Lots that show symptoms of oak wilt or other life-threatening diseases in a manner consistent with good horticultural practice. The Board, in its sole discretion, shall determine whether the provisions of this Section 2.9 have been satisfied.

2.10 Hazardous Activities; Fertilizers, Pesticides and Herbicides.

(a) No activities shall be conducted or allowed to exist on any portion of the Property and no Improvements shall be constructed on the Property, which are or might be unsafe or hazardous to any person or property. Without limiting the limiting the generality of the foregoing, activities that are expressly prohibited include (1) mining, quarrying, drilling, boring, or exploring for removing water, oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate or earth, (2) the use or discharge of firecrackers or other fireworks within the Property, (3) the use or storage of gasoline, oil or any similar type of flammable liquids in other than closed tanks with capacities of five (5) gallons or less within an enclosed structure or permanently screened from view, provided, however, only such liquids and gases as are customarily used for residential purposes shall be allowed on the Property, (4) any activities which may be offensive or hazardous by reason of odor, fumes, dust, smoke, noise, vision, vibration or pollution, or which are hazardous by reason of excessive danger, fire, or explosion, (5) hunting, trapping and the discharge of firearms including air rifles and pistols, (6) open fires in other than a contained barbecue unit for cooking purposes, while attended and in use, or within a safe and well designed interior or exterior fireplace, (7) the use of bows and arrows, crossbows, slingshots, darts or other projectile devices, (8) the discharge or leakage of any type of hazardous or toxic chemical or material, such as oil, fertilizers, pesticides or herbicides, provided, however, only such materials as are customarily used for residential purposes shall be allowed on the Property, (9) explosives or blasting for any purpose, including but not limited to construction, or (10) any activity not in compliance with the Edwards Aquifer Rules as promulgated by the Texas Natural Resource Commission.

(b) No fertilizers, pesticides or herbicides other than those generally available for consumer use and approved by an agency, such as the Food and Drug Administration, for the purpose intended shall be placed, used or stored on any Lot, nor shall be in violation of the Edwards Aquifer Rules as promulgated by the Texas Natural Resource Commission. All Owners using any such materials shall strictly comply with all instructions provided with such materials and shall take proper precautions placing, using and storing such materials so that such materials are contained at all times and do not result in the unnecessary discharge thereof into Edward's Aquifer or onto any other Lot.

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2.11 Vehicles; Unsightly Articles; Temporary Structures.

(a) Passenger vehicles, boats on trailers, motorcycles and scooters owned or used by an Owner shall not be parked or left on any portion of the Property other than such Owner's garage for longer than twelve (12) hours at a time. No mobile homes, boats, busses, trucks (other than passenger vehicle trucks), boat trailers, graders, tractors or wagons shall be parked or placed on any Lot at any time; provided, however, construction equipment may be left on a Lot during construction on such Lot, but shall be removed as soon as such equipment is no longer needed in such construction. No travel trailers or recreational vehicles shall be parked on or near any Lot so as to be visible from adjoining property or public or private rights-of-way for longer than forty-eight (48) hours at a time.

(b) No junk vehicles or equipment, spare vehicle or equipment parts or other article deemed to be unsightly by the Board shall be permitted to remain on any Lot so as to be visible from adjoining property or public or private rights-of-way. All garden maintenance equipment shall be kept at all times, except when in actual use in an enclosed structure or screened from view of adjoining property and public and private rights-of-way. No recreational equipment, including but not limited to swing sets, playscapes, skate boards, bicycles, skate board or bicycle ramps, basketball hoops and nets or badminton nets, shall be permitted in the front yard of any residence on the Property. Gardens shall be permitted for household use only and shall not be permitted in the front yards of residences. No repair or maintenance work shall be done on any garden maintenance equipment or on any vehicle (other than minor emergency repairs) except in an enclosed garage or other structure. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household materials shall be appropriately screened from view and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials or scrap or refuse of trash shall be kept, stored or allowed to accumulate on any portion of the Property except within an enclosed structure or appropriately screened from view.

(c) No shack, barn or other temporary Improvement shall be placed upon any portion of the Property; 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 written approval of the Architectural Committee, such approval to include the nature, size, duration and location of the structure. No tent may be placed upon any portion of the Property for more than seventy-two (72) hours, and any such tent placed upon any portion of the Property shall not be visible from any roadway.

2.12 Animals. No kennel or other facility for raising or boarding dogs or other animals for commercial purposes shall be kept on any Lot. Only the keeping of ordinary household pets such as dogs and cats, not to exceed two (2) each in number, is allowed; however, no breeding, raising, or boarding of such pets is permitted on any Lot. No dangerous animals as determined by the Board in its sole discretion may be kept on any Lot for any period of time. All pets permitted by this Declaration to be kept on a Lot shall at all times be properly vaccinated and cared for. No poultry or livestock of any kind may be kept on any Lot for any period of time. All pets shall be kept on the Owner's Lot and shall not be allowed to roam loose,

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and Owners having pets shall keep their Lot and all other Lots free of waste from their pet. All Owners must immediately curb their pets.

2.13 Fences. Chain link and other open mesh, wire type fences may not be constructed or maintained on any Lot. In addition, wood fencing running parallel to any street is prohibited. The Architectural Committee may, in its discretion, prohibit the construction of any proposed fence, or specify the materials of which any proposed fence must be constructed, or require that any proposed fence be screened by vegetation or otherwise so as not to be visible from other portions of the Property. No fences may be constructed across the front yard of a Lot, nor may any fences be constructed which will interfere with the water drainage within any drainage easements shown on the recorded plats of the Subdivision. Further, fencing on all Lots adjoining Cadillac Drive shall be a solid screen and shall be composed of masonry walls and/or solid landscaping.

2.14 Carports; Garages. No carports shall be erected or permitted to remain on any Lot. Each residence constructed on a Lot shall have attached to it an enclosed garage that shall be large enough to accommodate at least two (2) full size passenger automobiles. All garage doors shall be kept in the closed position when the Owner or occupant of the Lot is not using the garage for ingress and egress. Notwithstanding the foregoing, and subject to the approval of the Architectural Committee, a detached garage may be erected on a Lot provided said detached garage is attached to the main residence by a breezeway or covered walkway in keeping with the design, style and coloration of the main residence.

2.15 Underground Utility Lines. No utility lines or wires, including, but not limited to, wires or other devices for the communication or transmission of telephone, electric current or power or cable television, shall be erected, placed or maintained in or upon any Lot unless the same shall be contained in conduit or cables that are installed and maintained underground or that are concealed in, under or on Buildings; provided, however, that no provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of Improvements which have been previously approved in writing by the Architectural Committee. The installation method, including, but not limited to, location, type of installation equipment, trenching method and other aspects of installation for both temporary and permanent utility lines and wires shall be included in the Plans and Specifications for all Improvements.

2.16 Exterior Lighting. All exterior lighting on any Improvement must be approved by the Architectural Committee; provided, however, Christmas and other holiday lights shall be permitted without prior approval during the month of December each year, but must be removed by January 15 of the next year. No lighting shall be permitted that constitutes a nuisance or hazard to any Owner or occupant of any Lot. The Board in its sole discretion shall determine whether the provisions of this Section 2.16 have been satisfied.

2.17 Setbacks. There shall be, at a minimum, the following Lot property line setbacks in which no Building may be erected: twenty (20) feet from the front property line of any Lot, five (5) feet from each side property line of any Lot, and five (5) feet from the back property line of any Lot. Further, there is incorporated herein by reference any setback line shown on the final

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plat of the Subdivision, including without limitation, the planned unit development setbacks which vary from ten (10) feet to forty (40) feet along the perimeter of the Subdivision. The Architectural Control Committee may grant variances from the front property line setback of any Lot, in its sole discretion, on a Lot by Lot basis.

2.18 General Restrictions.

(a) All Buildings constructed on the Property shall be built in place on the Lot.

(b) There shall be no interference with the established drainage patterns over any of the Property, except by Declarant, unless adequate provision is made for proper drainage and the prior written approval of Architectural Committee is obtained.

(c) All Building foundations on slopes of fifteen percent (15%) or greater or on fill placed upon such slopes shall utilize design and construction practices certified by a registered professional engineer qualified to practice in such field and such design shall be delivered to the Architectural Committee with the Plans and Specifications.

(d) Once commenced, construction shall be diligently pursued to completion so that no construction is left in a partially completed condition any longer than reasonably necessary. All construction materials and debris shall promptly be cleared from each Lot upon completion of construction thereon.

(e) No mechanized watercraft of any kind shall be allowed in any water feature (lakes, ponds, creeks, etc.) located on the Property. Notwithstanding the foregoing, radio controlled or remote controlled, unmanned, scale model mechanized watercraft and non-mechanized watercraft such as canoes, kayaks or rowboats shall be allowed on water features during daylight hours only.

(f) Fishing shall be allowed within water features located on the Property during daylight hours on a catch and release basis only. Night fishing is not permitted. However, the Declarant or the Association may suspend this restriction as it pertains to catch and release in its sole discretion for the purpose of wildlife management.

2.19 Exclusions and Special Restrictions.

(a) The Common Area shall be completely exempt from all of the restrictions set forth in this Article 2 except 2.18(e) and 2.18(f).

(b) No residence or carport/garage shall be constructed within one hundred (100) feet of the south right of way line of Cadillac Drive. Improvements other than residences and carports/garages shall be allowed within this setback.

(c) Residences may not be constructed on any Lots containing ponds.

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(d) Water features located on the Property shall be part of the storm water management system for the Property. As such, said water features from time to time may become flooded, silty, dirty or contain debris from runoff. By acceptance of a deed to a Lot or Improvement, each Owner acknowledges that the water levels of all water features may vary. There is no guarantee by the Declarant or the Association that water levels will be constant or aesthetically pleasing at any particular time. In fact, water levels may be non-existent from time to time.

(e) The provisions of this Article 2 are intended to restrict certain uses that may be harmful or affect the ambience or aesthetic appeal of the Subdivision to be constructed by Declarant. The restrictions are not intended to prohibit Declarant from performing such work as may be necessary in the completion of the work in the Subdivision. The restrictions of this Article 2 shall therefor not be binding upon Declarant in the performance of any of the work required in order to complete construction of the Subdivision.

(f) The Subdivision is located within the Noise Impact Area surrounding the San Antonio International Airport. There may be excessive noise or vibration associated with the operation of planes arriving and departing from the San Antonio International Airport. By acceptance of a conveyance of a Lot in the Subdivision, each Owner is hereby notified of the Subdivision's inclusion in such Noise Impact Area and waives any and all claims or causes of action against Declarant, its parent company, subsidiaries, successors and assigns and the Association, arising from the operation of planes arriving and departing from the San Antonio International Airport.

(g) The Greenbelt Lots shall be left in a natural state; no trees or other vegetation shall be disturbed (except for routine maintenance and trimming to remove dead or unsafe branches); no lawn shall be planted, no pesticides, fertilizers or herbicides shall be used and no structures shall be erected or permitted.

ARTICLE 3 ARCHITECTURAL COMMITTEE

3.1 Membership and Duties of Architectural Committee.

(a) The Architectural Committee shall be composed of not more than three (3) persons. The following persons are hereby designated as the initial members of the Architectural Committee: **Harry Adams, Daniel J. Brouillette and W. Stephen Walker.**

(b) The Architectural Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration and perform such other duties assigned to it by this Declaration or as from time to time shall be assigned to it by the Board. The Architectural Committee shall review Plans and Specifications submitted for its review and such other information as it may require relating to the question of whether any proposed Improvement would unreasonably obstruct the view from other portions of the Property. The Architectural Committee shall have the authority to disapprove any proposed

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Improvement based upon the restrictions set forth herein and the decision of the Architectural Committee shall be final and binding so long as it is made in good faith. The Architectural Committee shall not be responsible for inspecting any proposed Improvement, nor shall its approval of any Plans or Specifications be deemed approval of any Improvement as to structural safety, engineering soundness or conformance with any building or other codes.

3.2 Term. Each member of the Architectural Committee shall hold office for two (2) calendar years or until such time as he has resigned or has been removed and his successor has been appointed.

3.3 Declarant's Rights of Appointment. Declarant, its successors and assigns, shall have the right to appoint and remove all members of the Architectural Committee. Declarant may delegate this right to the Board by written instrument. Thereafter, the Board shall have the right to appoint and remove all members of the Architectural Committee.

3.4 Review of Construction, Alteration or Removal of Improvements.

(a) Whenever in this Declaration the approval of the Architectural Committee is required, the Architectural Committee shall have the right to consider all of the Plans and Specifications for the Improvement or proposal in question including setbacks, orientation and all other facts, materials, construction samples and other information which it considers, in its sole discretion, to be relevant. Prior to commencement of any construction, alteration or removal of any Improvement on any Lot, the Plans and Specifications therefore shall be submitted to the Architectural Committee, and construction, alteration or removal thereof may not commence unless and until the Architectural Committee has approved such Plans and Specifications in writing. All such construction, alteration or removal shall conform to the approved Plans and Specifications.

(b) An Owner, other than Declarant, proposing to construct, alter or remove an Improvement on any Lot shall submit an application to the Architectural Committee together with two (2) sets of the Plans and Specifications for such construction, alteration or removal and the application fee described herein below. Within thirty (30) days after receipt by the Architectural Committee of such Plans and Specifications, it shall act on the Plans and Specifications as follows:

(i) The Architectural Committee may request in writing that the Owner submit to it such additional materials, construction samples and information that the Architectural Committee considers relevant in reviewing the Plans and Specifications for compliance with this Declaration. Until receipt by the Architectural Committee of all information requested by it, it may postpone review of such Plans and Specifications. Upon receipt of all such information requested by it, the Architectural Committee shall act upon such Plans and Specifications within thirty (30) days. The written request of the Architectural Committee for additional information shall be binding upon the Architectural Committee as a complete list of such information if the additional information is received by it within sixty (60) days of its request. The Architectural Committee

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may request the additional information described above herein at any time it receives revised Plans and Specifications; provided, however, such request shall be limited to the additional or revised items therein and not to items previously reviewed by the Architectural Committee unless such items are affected by such revision.

(ii) If the Architectural Committee approves such Plans and Specifications, it shall mark both sets of the Plans and Specifications "Approved" with the date thereof, and retain one set for its records and return one set to the Owner. The Owner must commence construction of the Improvements shown in approved Plans and Specifications within ninety (90) days of the Architectural Committee's approval thereof or such approval shall lapse. Upon written request of an Owner, the Architectural Committee shall grant up to two (2) thirty (30) day extensions of such approval.

(iii) If the Architectural Committee disapproves such Plans and Specifications, it shall mark both sets of the Plans and Specifications "Disapproved" with the date thereof, and retain one set for its records and return one set to the Owner, with a written statement of all of the items that were found not to comply with the Declaration. Thereafter, the Owner shall submit to the Architectural Committee two (2) revised sets of Plans and Specifications, with notations thereon sufficient to identify the revised portions, and the Architectural Committee shall act on such revised Plans and Specifications within thirty (30) days after receipt by it of such revised Plans and Specifications. The written statement on non-complying items shall be binding upon the Architectural Committee as a complete list of such items if revised Plans and Specifications with changes conforming to such statement are received by it within sixty (60) days of the date of such statement. The Architectural Committee may disapprove revised Plans and Specifications submitted to it according to the provisions hereof; provided, however, the Architectural Committee shall only disapprove the revised Plans and Specifications based on the revised or additional items therein and not based on items previously reviewed by the Architectural Committee.

(iv) If the Architectural Committee fails to act on any Plans and Specifications submitted to it within thirty (30) days after receipt by the Architectural Committee of all information requested by it in connection with such Plans and Specifications, the Owner shall notify the Architectural Committee of such failure, and the Architectural Committee shall have an additional thirty (30) days in which to act on said Plans and Specifications. If the Architectural Committee fails to act on such Plans and Specifications within the extended thirty (30) day period, then approval of the matters submitted to it shall be presumed.

(c) The Board shall establish and may thereafter amend from time to time an application fee that shall be paid in cash by each Owner at the time of submittal of any application and Plans and Specifications to the Architectural Committee. Such fee may be in

different amounts based upon the activity proposed in such application. Such fee shall not exceed the reasonable costs and expenses of the Board and the Architectural Committee for the processing and review of Plans and Specifications.

3.5 Actions of the Architectural Committee. The Architectural Committee may, by resolution unanimously adopted in writing, designate one (1) or two (2) of its members or an agent acting on its behalf to take any action or perform any duties for and on behalf of the Architectural Committee. In absence of such designation, the vote of a majority of all of the members of the Architectural Committee taken at a meeting shall constitute an act of the Architectural Committee. In the event that the members of the Architectural Committee cannot agree by majority vote on any matter submitted to them, the matter may be raised at any meeting of the Members of the Association and decided by a majority of those present, provided that a quorum is present.

3.6 No Waiver of Future Approvals. The approval or consent of the Architectural Committee to any Plans or Specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the Architectural Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans and Specifications, or other matter whatsoever, subsequently or additionally submitted for approval or consent by the same or a different Owner.

3.7 Waiver. The Architectural Committee may grant such waivers of any of the restrictions contained in this Declaration as it considers appropriate based upon the quality and design of a proposed Improvement; provided, however, it shall not grant a waiver of the restrictions contained in Sections 2.1, 2.2, 2.5, and 2.10 hereof.

3.8 Nonconforming or Unapproved Improvements. The Architectural Committee at its option may inspect all work in progress to ensure compliance with approved Plans and Specifications. The Architectural Committee may require any Owner to restore such Owner's Lot to the condition existing prior to construction, alteration or removal of any Improvement thereon, including, without limitation, the demolition and removal of any unapproved or nonconforming Improvement, if such Improvement was constructed or altered in violation of this Article 3. In addition, the Architectural Committee may, but has no obligation to, cause such restoration, demolition, and removal of any such Improvement, and levy the amount of the cost thereof as a special individual assessment against the Lot upon which such unapproved or nonconforming Improvement was constructed or altered.

3.9 Nonliability of Architectural Committee and Board Members. Notwithstanding anything to the contrary in this Declaration, neither the Architectural Committee nor the members thereof, nor the Board nor the members thereof, shall be liable to any Owner or any other third party due to the construction of any Improvement within the Property or the creation thereby of an obstruction to the view from such Owner's Lot or Lots.

3.10 Address. Plans and Specifications shall be submitted to the Architectural Committee in care of Toll Brothers, Inc., 1710 West 6th Street, Austin, Texas 78703, Attention:

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Architectural Committee, or such other address as may be designated from time to time in writing by the Architectural Committee.

ARTICLE 4
EDGEWATER HOMEOWNERS ASSOCIATION, INC.

4.1 Organization. The Association is a non-profit corporation created by Declarant for the purposes, and charged with the duties and vested with the powers, prescribed by law and set forth in its Articles and Bylaws or in this Declaration. Neither the Articles nor Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

4.2 Membership. Any person or entity upon becoming an Owner shall automatically become a Member of the Association. Membership shall be appurtenant to and shall run with the property interest which qualifies the Owner thereof for membership, and membership may not be severed from, or in any way transferred, pledged, mortgaged, or alienated except together with the title to such property interest.

4.3 Voting Rights. The right to cast votes, and the number of votes which may be cast, for election of Members to the Board of Directors of the Association and on all other matters to be voted on by the Members shall be calculated as follows:

(a) The Owner (excluding Declarant) of each Lot shall have one (1) vote for each Lot so owned.

(b) Declarant shall have thirty (30) votes for each Lot owned by Declarant.

4.4 Duties of the Association. Subject to and in accordance with this Declaration, the Association, acting through the Board, shall have and perform each of the following duties:

(a) To accept conveyance of title to the Common Area from the Declarant.

(b) To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to the common Area and any other property owned by or leased to the Association, to the extent that such taxes and assessments are not levied directly upon the Members. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.

(c) To obtain and maintain in effect policies of insurance which, in the Board's judgment, are reasonably necessary or appropriate to carry out the Association functions.

(d) To make, establish and promulgate, and in its discretion to amend or repeal and re-enact, such Association Bylaws, not in conflict with this Declaration, as it deems proper covering any and all aspects of its functions.

- (e) To keep books and records of the Association's affairs.
- (f) To maintain, repair, replace, clean, inspect and protect the Common Area, including, but not limited to, all water quality control equipment, riparian rights, pumps, wells, ponds, private streets and joint use access easements as depicted on the recorded plats of the Subdivision, and private Subdivision security gates, landscaping, lighting, signage and other improvements located therein or thereon.
- (g) To maintain, repair, replace and protect the entrance sign to the Subdivision.
- (h) To pay all utilities provided to the Common Area and/or the entrance to the Subdivision.
- (i) To carry out and enforce all duties of the Association set forth in this Declaration.
- (j) To pay all expenses incurred by the Architectural Committee and/or the Association.

4.5 Powers and Authority of the Association. The Association shall have the powers of a Texas non-profit corporation, subject only to such limitations upon the exercise of such power as are expressly set forth in this Declaration. It shall further have the power to do and perform any and all acts that may be necessary or proper, for or incidental to the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration. Without in any way limiting the generality of the two preceding sentences, the Association and the Board acting on behalf of the Association, shall have the power and authority at all times as follows:

- (a) To levy Assessments as provided in Article 5 below.
- (b) To enter at any time in an emergency, or in a non-emergency after forty-eight (48) hours written notice, without being liable to any Owner, upon any Lot or into any Improvement thereon, for the purpose of enforcing this Declaration or for the purpose of maintaining or repairing any area, Improvement or other facility to conform to this Declaration, and the expense incurred by the Association in connection with the entry upon any Lot or Improvement and maintenance and repair work conducted thereon shall be a personal obligation of the Owner of the Lot entered upon, shall be secured immediately by a lien upon the Lot entered upon and the Improvements thereon, and shall be enforced in the same manner and to the same extent as provided in Article 5 hereof for regular and special Assessments. The Association shall have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction otherwise, or to restrain and enjoin, any breach or threatened breach of this Declaration. The Association is also authorized to settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce this Declaration; provided, however, that the Board shall never be authorized to expend

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any Association funds for the purpose of bringing suit against Declarant its agents contractors, successors or assigns.

(c) To retain and pay for the services of a Manager to manage and operate the Association, to the extent deemed advisable by the Board. To the extent permitted by law, the Association and the Board may delegate any duties, powers and functions to the Manager. The Members hereby release the Association and the members of the Board from liability for any omission or improper exercise by the Manager of any such duty, power or function so delegated.

(d) To retain and pay for legal and accounting services necessary or proper in the operation of the Association.

(e) To obtain and pay for any other property and services, and to pay any other taxes or assessments which the Association or the Board is required to secure or to pay for pursuant to applicable law or the terms of this Declaration.

(f) To enter into contracts with Declarant and with other persons on such terms and provisions as the Board shall determine, and to acquire and own, and to dispose of all manner of real and personal property, whether by grant, lease, gift or otherwise.

4.6 Power to Indemnify and to Purchase Indemnity Insurance. The Association shall indemnify and may reimburse and/or advance expenses and/or purchase and maintain insurance or any other arrangement on behalf of any person who is or was a director or officer of the Association against any liability asserted against such person and incurred by such person in such a capacity or arising out of his status as such a person to the maximum extent permitted by Article 1396 §2.22A of the Texas Non-Profit Corporation Act, as such Act may from time to time be amended (without regard, however, to Section Q of such Article with respect to officers of the Association who are not directors of the Association). Further, the Association may indemnify and/or reimburse and/or advance expenses and/or purchase and maintain insurance or any other arrangement on behalf of any person, other than any person who is Director of the Association, who is or was an officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another corporation, partnership, joint venture, sole proprietorship, trustee, employee benefit plan or other enterprise, against any liability asserted against such person and incurred by such person in such a capacity or arising out of his status as such a person, to such extent (or, in the case of officers of the Association, to such further extent), consistent with applicable law, as the Board may from time to time determine. The provisions of this Section 4.6 shall not be deemed exclusive of any other rights to which any such person may be entitled under any Bylaw, agreement, insurance policy, vote of Members or otherwise.

4.7 Legal Actions. No judicial or administrative proceedings shall be commenced or prosecuted by the Association unless approved by Lot Owners entitled to cast at least sixty (60%) percent of the votes present at a duly constituted meeting of Members. The foregoing shall not apply to actions brought by the Association to enforce the provisions of this Declaration, the imposition and collection of Assessments, proceedings involving challenges to

real property taxes, or counterclaims brought by the Association in proceedings instituted against it, which may be pursued if approved by the Board.

4.8 Water Features. No lifeguard shall be provided for any water features located in the Subdivision. Owners may use the ponds or other water features at their own risk for the purposes stated in Section 2.19(e) and 2.19(f) only. Owners, their guests, invitees, and licensees hereby indemnify and hold harmless the Association, the Declarant, its parent company, subsidiaries, successors and assigns from any and all liability, claims or causes of action, relating to the use of any ponds or other water features located in the Subdivision by Owners, their guests, invitees, and licensees.

ARTICLE 5 ASSESSMENTS

5.1 Assessments.

(a) The Association may from time to time levy Assessments against each Lot, whether or not such Lot is improved. The amount of Assessments shall be equal and uniform among all Lots; provided, however, that no Assessments shall ever be levied hereunder against any Lot owned by Declarant or any Common Area.

(b) Where an Owner's obligation to pay Assessments first arises after the commencement of the year or other period for which an Assessment was levied, such Assessment shall be in a prorated amount proportionate to the fraction of the year or other period remaining after said date.

(c) Each purchaser of any Lot, by acceptance of a deed therefore, shall be deemed to covenant to pay to the Association each Assessment levied hereunder against such Lot, whether or not such covenant shall be expressed in any such deed or other conveyance. Each unpaid Assessment together with interest thereon and costs and expenses off collection thereof, including, without limitation, reasonable attorneys' fees, as hereinafter provided, shall be the personal obligation and debt of the Owner of the Lot against which the Assessment was levied.

(d) The obligation to pay Assessments levied by the Association hereunder is part of the purchase price of each Lot when sold to an Owner. An express vendor's lien is hereby retained to secure the payment of each and every Assessment levied hereunder, and each such vendor's lien to be superior and paramount to any homestead or other exemption provided by law. The Association may enforce the payment of Assessments in accordance with the provisions of this Article 5.

(e) The Assessments shall be used exclusively for the purpose of promoting the comfort, health, safety and welfare of the Owners, the maintenance and improvement of the Lots, and for carrying out the purposes of the Association as stated herein or as otherwise provided in the Articles of the Association.

5.2 Regular Annual Assessments. Prior to the beginning of each fiscal year for the Association, the Board shall estimate the expenses to be incurred by the Association during such year in performing its functions under this Declaration, including a reasonable provision for contingencies and appropriate replacement reserves, less any expected income and any surplus from the prior year's fund. The Association shall then levy assessments sufficient to pay such estimated net expenses as herein provided, and the amount of such Assessments as determined by the Board shall be final and binding so long as such determination is made in good faith. All such regular Assessments shall be due and payable to the Association at the beginning of the fiscal year for the Association for which such Assessments are payable, or during such fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion.

5.3 Special Assessments. In addition to the regular Assessments provided for above, the Association may levy special Assessments whenever in the Board's sole opinion such special Assessments are necessary to enable the Board to carry out the functions of the Association under this Declaration. The amount of any special Assessments shall be determined by the Board in its sole discretion and shall be due and payable in any manner as the Board may designate.

5.4 Owner's Personal Obligation for Payment of Assessments. Each regular and special Assessment provided for herein shall be the personal and individual debt of the Owner of the Lot against which such Assessment was levied. No Owner, other than Declarant, may exempt himself from personal liability for such Assessments. In the event of default in the payment of any Assessment, the Owner of the Lot against which such Assessment was levied shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect of the amount of the Assessment from the due date thereof (or if there is no such highest rate, then at the rate of two percent [2%] per month) together with all costs and expenses of collection, including, without limitation, reasonable attorneys' fees.

5.5 Assessment Lien and Foreclosure.

(a) The payment of each unpaid Assessment levied hereunder together with interest thereon as provided in Section 5.4 hereof and the costs and expenses of collection, including reasonable attorneys' fees, as herein provided, is secured by a continuing lien and charge on the Lot against which such Assessment was levied. Such lien for payment of Assessments shall bind such Lot in the hands of the Owner, and such Owner's heirs, devisees, personal representatives, successors or assigns, and shall be superior to all other liens and charges against such Lot, except only for tax liens, and all sums unpaid on any first lien Mortgage securing sums borrowed for the purchase or improvement of such Lot, provided such Mortgage was recorded in the Official Public Records of Bexar County, Texas, before such Assessment was due. The Association shall have the power, in the Board's sole and absolute discretion, to subordinate the aforesaid lien for payment of Assessments to any other lien. Any such subordination shall be signed by an officer of the Association and recorded in the Official Public Records of Bexar County, Texas. Upon the written request of any Beneficiary holding a lien on any Lot that is superior to the lien for payment of Assessments as provided herein, the

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Association shall report to said Beneficiary the amount of any Assessments levied against such Lot remaining unpaid for a period of more than thirty (30) days after the same are due.

(b) To evidence the aforesaid lien for payment of Assessments, the Association may prepare a written notice of assessment lien setting forth the amount of the unpaid indebtedness, a description of the Lot encumbered by the lien and the name of the Owner of such Lot. Such notice shall be signed by one of the officers of the Association and shall be recorded in the Official Public Records of Bexar County, Texas. The Association may enforce such lien by the foreclosure sale of the defaulting Owner's Lot in like manner as a foreclosure of a mortgage or contractual lien on real property as provided in Section 51.002 of the Texas Property Code, as the same may be amended or modified, or the Association may institute suit against the Owner personally obligated to pay the Assessment for monetary damages and/or for the judicial foreclosure of the aforesaid lien. The Owner of the effected Lot shall be required to pay all costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by the Association in connection with any foreclosure proceeding, whether judicial or non-judicial. The Association shall have the power to bid on any Lot at any foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same.

(c) The liens for payment of Assessments provided for herein shall not be affected or extinguished by the sale or transfer of any Lot, whether by judicial or non-judicial foreclosure sale or otherwise; provided, however, that in the event of foreclosure of any first lien Mortgage superior to the lien for the delinquent Assessment, the lien for the delinquent Assessment will be extinguished, and the delinquent Assessment shall be paid out of the proceeds of such foreclosure sale only to the extent that funds are available after the satisfaction of the first lien Mortgage. The extinguishing of any lien for payment of Assessments as herein provided will not relieve any Owner from the obligation to pay Assessments subsequently becoming due and payable.

5.6 Assessment Upon Transfer. The Association shall collect an Assessment of One Thousand and No/100 Dollars (\$1,000.00) per Lot from each purchaser of a Lot at the time of each closing of such Lot. Such Assessment shall be due and payable on each Lot each time ownership of such Lot is transferred.

ARTICLE 6 MISCELLANEOUS

6.1 Term. This Declaration, including all of the covenants, conditions and restrictions hereof, shall continue in force and effect until January 1, 2040, unless amended as herein provided. After January 1, 2040, this Declaration, including all such covenants, conditions and restrictions, shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by the Owners of at least three-fourths (3/4) of the Lots. Notwithstanding the foregoing, this Declaration shall remain in force and effect and shall not terminate for so long as Declarant owns any portion of the Property.

6.2 Amendment.

(a) This Declaration may be amended by Declarant alone so long as Declarant holds at least one (1) Lot in the Association. No amendment by Declarant shall be effective until there has been recorded in the Official Public Records of Bexar County, Texas, an instrument executed and acknowledged by Declarant setting forth the amendment, and an instrument executed and acknowledged by the President and Secretary of the Board certifying that Declarant had at least one (1) Lot in the Association at the time of the amendment.

(b) In addition to the method provided in Section 6.2(a), this Declaration may be amended by the recording in the Official Public Records of Bexar County, Texas, of an instrument executed and acknowledged by the President and Secretary of the Association, setting forth the amendment and certifying that such amendment has been approved by enough other Owners entitled to cast so that the total number of Owners approving the amendment equal at least eighty percent (80%) of the number of votes entitled to be cast pursuant to Section 4.3.

(c) Notwithstanding the provisions of subsections (a) and (b) above, any amendment to change the provisions of Sections 1.1(a) hereof; or Section 2.5 hereof; or Section 6.8(a) hereof, shall require the joinder of Cadillac Drive Neighborhood Association, Inc., and any such amendment to said Sections which is not joined by the Cadillac Neighborhood Association, Inc., shall be null and void.

6.3 No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms or provisions. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants, terms or provisions shall assume all risks of the validity and enforceability thereof and by acquiring the Lot agrees to hold Declarant harmless therefrom.

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

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

6.6 Exemption of Declarant: Utility Easements.

(a) Notwithstanding anything in this Declaration to the contrary, Declarant shall not in any way be subject to the control of or under the jurisdiction of the Board, the Association or the Architectural Committee. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant to excavate and grade, to construct and alter drainage patterns and facilities, to construct any and all other types of Improvements, sales and leasing offices and similar facilities, and to post signs incidental to construction, sales and leasing anywhere within the Property.

(b) Declarant reserves the right to locate, construct, erect and maintain or cause to be located, constructed, erected and maintained in and on any areas owned by Declarant sewer and other pipelines, conduits, wires and any Improvement relating to a public utility function, subject to Section 2.15 hereof, with the right of access to the same at any time for the purposes of repair and maintenance.

6.7 Assignment of Declarant. Notwithstanding anything in this Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights and duties under this Declaration to any other person or entity and may permit the participation, in whole or in part, by any other person or entity in any of its privileges, exemptions, rights and duties hereunder. Such assignment shall be evidenced by a written instrument, executed by Declarant and the assignee, recorded in the Official Public Records of Bexar County, Texas.

6.8 Enforcement and Nonwaiver.

(a) Except as otherwise provided herein, any Owner at his own expense, Declarant or the Board shall have the right to enforce the provisions of this Declaration, and since the Cadillac Drive Neighborhood Association, Inc., is a beneficiary of the provisions of Section 1.1(a); Section 2.5; and Section 6.2(c) hereof, the Cadillac Drive Neighborhood Association, Inc., shall be entitled to enforce the provisions of Section 1.1(a), Section 2.5 and/or Section 6.2(c) hereof. Such right of enforcement shall include both damages for, and injunctive relief against, the breach or threatened breach of any such provision.

(b) Every act or omission whereby any provision of this Declaration is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined by any Owner (at his own expense), Declarant or the Board.

(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 Property 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 this Declaration at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of this Declaration.

(e) The Association shall have the right, when appropriate in its judgment, to claim and impose a lien upon any Lot or Improvement constructed thereon in order to enforce any right under, or effect compliance with, this Declaration.

6.9 Alternative Dispute Resolution. In the event of any dispute, controversy or claim between or among Declarant, any Owner or Owners, the Association and/or the Architectural Committee relating to or arising out of any provision of this Declaration, the parties to the dispute shall meet in a good faith effort to resolve the dispute through negotiations. In the event the parties are unable to resolve the dispute through negotiations, such matter shall be submitted to and settled by such form of extra-judicial dispute resolution as the parties can mutually agree. To the fullest extent allowed by law, this clause shall be specifically enforceable under applicable laws to mandate the parties' use of a means of resolving disputes other than formal judicial proceedings. In the event the parties are unable to agree on another such form of dispute resolution, any dispute, controversy or claim arising out of any provision of this Declaration shall be submitted to binding arbitration following these procedures:

(a) The arbitration shall take place in the City of San Antonio, Bexar County, Texas.

(b) Pending the outcome of arbitration, there shall be no changes made in the language of this Declaration.

(c) The arbitration shall be initiated by any party to the dispute, claim or controversy giving written notice requesting arbitration to the other party or parties thereto, which notice shall include a precise statement of the matter to be arbitrated.

(d) Within five (5) days of receiving notice of the written request for arbitration, the receiving party or parties shall designate in writing to the initiating party the name of an arbitrator who meets the requirements set forth herein below. The initiating party shall have five (5) days to object to the named arbitrator by designating in writing to the receiving party the name of another arbitrator who meets the requirements set forth herein below. The receiving party shall have five (5) days to object to the named arbitrator by giving written notice to the initiating party, in which case within five (5) days after the receipt of the written objection the two previously nominated arbitrators shall designate an arbitrator by giving written notice of their choice to the receiving and initiating parties.

(e) The arbitrator shall designate the time and place of the hearing which must occur within thirty (30) days of the arbitrator's selection. The arbitrator shall give twenty (20) days written notice of the hearing to the parties to the dispute, claim or controversy. The parties may be represented by attorneys at the hearing. The arbitrator shall make a decision within seven (7) days after the hearing and communicate that decision in writing to each party who participated in the hearing.

(f) The request for arbitration must be made within a reasonable time after the dispute, claim or controversy has arisen. In no event may the request for arbitration be made after the date when institution of legal or equitable proceedings based on such dispute, claim or controversy would be barred by the applicable statute of limitations.

(g) Anyone designated as an arbitrator (i) must be an impartial third party who has the training or qualifications required by the laws of the State of Texas and (ii) must not be personally acquainted with any of the parties to the dispute, claim or controversy.

(h) The arbitrator may assess such costs against the party or parties who do not prevail.

6.10 Construction.

(a) The provisions of this declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.


(b) Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine or neuter.

(c) All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit, or otherwise effect that which is set forth in any of the paragraphs, sections or articles hereof.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of this the 23
day of JAN 2002

TOLL TX, L.P.,
a Texas limited partnership

By: **TOLL TX GP CORP.,** a Delaware
corporation, its sole general partner

By: 
Daniel J. Brouillette,
Vice President

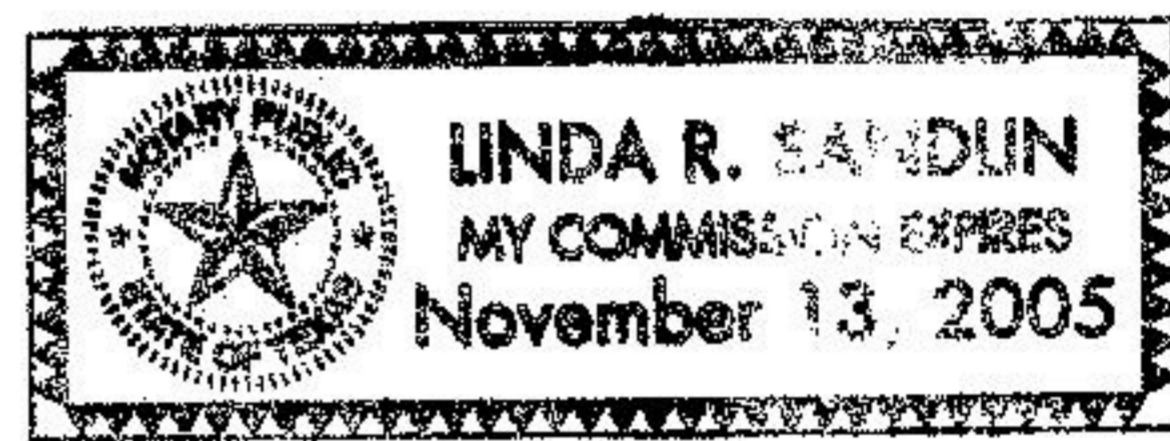
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THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 23rd day of January, 2002 by **DANIEL J. BROUILLETTE**, Vice President of **TOLL TX GP CORP.**, a Delaware corporation, as sole general partner of **TOLL TX, LP.**, a Texas limited partnership, on behalf of said corporation and said limited partnership.

Linda R Sandlin

NOTARY PUBLIC, State of Texas
My commission expires: _____



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 BEKAR
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:

MAY 02 2002

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AFTER RECORDING RETURN TO:

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