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DECLARATION OF PROTECTIVE COVENANTS

FOR

PHASE 10C AT THE DOMINION

THE DOMINION PLANNED UNIT DEVELOPMENT  
(PHASE 10C)

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

THAT EMERALD TEXAS, INC. ("Declarant"), being the owner of all of the lots situated within that certain subdivision known as Phase 10C of The Dominion Planned Unit Development, according to the plat of said subdivision recorded in Volume 9528, Page(s) 170-171 of the Deed and Plat Records of Bexar County, Texas, (hereinafter called "the subdivision," or "Phase 10C"), and desiring to create and carry out a uniform plan for the improvement, development and sale of the subdivided lots situated in the subdivision, does hereby adopt and establish the following restrictions and covenants to run with the land and to apply in the use, occupancy, and conveyance of the aforesaid described subdivided lots therein, and each Contract or Deed which may be executed with regard to any of such property shall be held to have been executed, delivered and accepted, subject to the following restrictions and covenants (the headings being employed for convenience only and not to be controlling over content):

ARTICLE I.

DEFINITIONS

The following terms when used in this Declaration shall have the following meanings unless the context prohibits:

- (1) Association shall mean The Dominion Homeowners Association, the nonprofit corporation which is referred to in a Declaration of Covenants, Conditions, Easements and Restrictions duly recorded in Volume 2956, Pages 61, et. seq., of the Official Public Records of Real Property of Bexar County, Texas (the "Umbrella Declaration"), its successors and assigns.
- (2) Common Properties shall mean the properties to be owned and maintained by the aforesaid Association for the common use and enjoyment of its members, including but not limited to private streets, greenbelts, parkways, medians, islands, gates and other facilities now or hereafter situated within The Dominion Planned Unit Development.

VOL 6031 PG 0731

- (3) Declarant shall mean Emerald Texas, Inc. and any other party to whom it assigns in writing any of its rights hereunder.
- (4) Improvements shall mean and include all buildings, outbuildings, patios, balconies, decks, fences, walls, hedges, landscaping; antennae, towers, poles, ponds, lakes, swimming pools, driveways, parking areas, utilities, signs and other structures, apparatus, improvements, recreational facilities, plantings, or equipment of a permanent or semi-permanent character located on a Lot. Included are both original Improvements made to a Lot in Phase 10C and all subsequent changes, additions, treatments or replacements thereto.
- (5) Dwelling shall mean and refer to a single-family residence and its attached or detached garage situated upon a Lot.
- (6) Lot shall mean any lot, plot, parcel or tract of land shown on the recorded subdivision plat of Phase 10C with the exception of the Common Properties.
- (7) Owner shall mean the record Owner, whether one or more persons or entities, of fee simple title to a Lot situated in Phase 10C (including contract sellers), but excluding those having such interest merely as security for the performance of an obligation.
- (8) Architectural Control Committee or Committee shall mean the Architectural Control Committee referred to in Article IV hereof.
- (9) The Dominion Planned Unit Development shall mean that development which is covered by the Umbrella Declaration, both the original property described therein as well as any other parcels covered by Annexation Certificates thereto.

## ARTICLE II.

### USE

All Lots in the subdivision shall be used for single-family residential purposes only, except for Lot 34, Block 5 and Lot 12, Block 6 both of The Dominion Planned Unit Development Phase 10C, which shall be deemed "Common Properties". One single-family Dwelling per Lot shall be permitted, together with accessory structures incidental thereto, including, but not limited to, garage, utility storage, shade structures, swimming pools, spas, fountains, patios, walls, fences, trellises and other similar

structures, provided such structures are not connected or attached to Dwellings on adjacent Lots. "Single-family" shall mean a group of persons related by blood, marriage or adoption and shall also include foster children and domestic servants.

No Owner shall occupy or use his Lot or any Improvements constructed thereon, or permit the same or any part thereof to be occupied or used for any purpose other than as a private residence for the Owner, his family, guests, tenants and servants, and uses directly incidental thereto.

No building material of any kind shall be placed or stored upon any Lot until the Owner thereof is ready to commence Improvements, and then, the material shall be placed within the property lines of the Lot upon which the Improvements are erected and shall not be placed on the street or between the curb and property line. Once construction is commenced, it shall be diligently pursued to the end that the Improvements are not left in an unfinished condition any longer than is reasonably necessary.

#### ARTICLE III.

##### TITLE TO COMMON PROPERTIES

The private streets, greenbelts and other so-called "Common Properties" situated within Phase 10C which are earlier identified herein as "Common Properties" shall be deeded in fee to the Association free and clear of any liens or other encumbrances prior to the conveyance of a platted lot within Phase 10C. Until such time as such Common Properties are so deeded and in excess of fifty percent (50%) of the Owners of Lots in Phase 10C are required hereunder to pay maintenance assessments, the Association shall have absolutely no responsibility for the maintenance, upkeep or repair thereof. Thereafter, the Association shall be responsible for the maintenance, upkeep and repair of such Common Properties situated with Phase 10C. At the time the Association's responsibility for the maintenance, upkeep and repair of the Common Properties begins, Declarant shall certify to the Association that any streets, curbs and other improvements therein situated are in a state of good repair and maintenance and that any materials planted by Declarant in such Common Properties are alive. No assessments shall be imposed on any of the Common Properties.

#### ARTICLE IV.

##### UMBRELLA DECLARATION TO APPLY

In addition to the covenants, conditions, restrictions, and obligations set forth in this Declaration, the Umbrella Declaration (as modified from time to time), and the covenants, conditions, restrictions and obligations set forth therein shall apply to the Lots in Phase 10C, whether or not the Declarant has complied with

the provisions of Article I, Section 3 of the Umbrella Declaration by recording of the Annexation Certificate annexing Phase 10C into The Dominion Planned Unit Development. Notwithstanding the foregoing, should any provision of this Declaration conflict with a provision of the Umbrella Declaration, this Declaration shall control.

#### ARTICLE V.

##### ARCHITECTURAL CONTROL

- (1) Development Objectives. The aesthetic quality of Phase 10C requires that all Improvements be compatible with other Improvements and be in harmony with the natural surroundings. To this end, the Architectural Control Committee (sometimes hereinafter called "the Committee") has been created. The Architectural Control Committee has the responsibility to carry out the goals and functions that have been adopted, and are described below, and which may be amended from time to time.
- (2) Architectural Control Committee. The Architectural Control Committee shall be composed of members appointed by the Board of Directors of the Association who have the exclusive right and power at any time, and from time to time, to create and fill vacancies on the Committee.
- (3) Goal of Architectural Control Committee. The goal of the Committee is to encourage the construction of buildings of good architectural design, quality and proper size compatible with Declarant's conceptual plan for Phase 10C and with the conceptual plan for The Dominion Planned Unit Development as contemplated in the Umbrella Declaration. Buildings should be planned and designed with particular attention to the design and aesthetic appearance of the exterior and the use of such material as will, in the judgment of the Committee, create an attractive and harmonious blend with existing and proposed homes and the natural surroundings. The Committee may disapprove the construction or design of a home on purely aesthetic grounds where, in its judgment, such disapproval is required to protect the continuity of design or values of the neighborhood and of other homeowners in The Dominion Planned Unit Development or to preserve the serenity and natural beauty of any surroundings. Prior judgments regarding matters of design or aesthetics shall not be deemed binding upon the Architectural Control Committee if the Committee feels that the repetition of such matters will have an adverse affect on The Dominion Planned Unit Development.

VOL 6031 PG0734

- (4) Function of the Architectural Control Committee. The Committee shall function as the representative of the owners of property within The Dominion Planned Unit Development for the purposes herein set forth as well as for all purposes consistent with the creation and preservation of a first-class development. No "Improvement," as that term is defined in this Declaration, shall be erected, constructed, placed, altered (either by addition or deletion), maintained or permitted to remain on any portion of a Lot in Phase 10C until plans and specifications, in such form and detail as the Committee may deem necessary, shall have been submitted to and approved in writing by such Committee. The Architectural Control Committee shall have the power to employ professional consultants to assist it in discharging its duties. The decision of the Architectural Control Committee shall be final, conclusive, and binding upon the applicant.
- (5) Procedure of the Architectural Control Committee. The Committee may establish and publish from time to time reasonable administrative procedures and separate building guidelines covering the Improvements, which procedures and guidelines will be binding upon the Owners, their successors and assigns. All submissions (requests for approvals, inquiries, etc.) to the Committee, in order to be effective, must be by written communication addressed to the Committee at the business offices of the Association, and must either be delivered to such offices or sent in the United States Mails thereto. Verbal communications with such Committee shall be ineffectual for all purposes. All approvals or variances issued by the Committee, in order to be effective, must be in writing.
- (6) Approval of Plans. No building, structure, wall, fence, landscaping, recreational facilities of any kind, or other improvement shall be commenced, erected or maintained upon a Lot, nor shall any exterior addition to or change or alteration therein be made, until the detailed plans and specifications therefor shall have been submitted to and approved in writing as to harmony of external design, color and location and as to compliance with minimum standards in relation to property lines, easements, grades, surrounding structures, walks, topography and all other matters related thereto by the Committee. The submitted plans and specifications shall specify, in such form as the Architectural Control Committee may reasonably require, materials, structural detail, elevations, landscaping detail, and the nature, kind, shape, height, exterior color scheme, and location of the proposed improvements or alteration thereto. In

VOL 5031 PG 735

the event said Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the plans and specifications have been submitted to it, approval will not be required and the provisions of this Section will be deemed to have been fully complied with. The Architectural Control Committee shall be the sole authority to determine whether proposed structures and modifications of proposed structures comply with applicable covenants, conditions, and restrictions and are in harmony of external design with existing structures and the overall plan of development of the subdivision. Among other matters, the Committee shall consider the proposed topography, finished grade elevation, and the general appearance of the proposed improvements as may be determined from the front, rear, and side elevations on submitted plans. The Committee's objective is to prevent unusual, radical, uncommon, curious, odd, extraordinary, bizarre, peculiar, or irregular designs or appearances from being built on, in and/or within a Lot and, to the extent possible, ensure the harmonious development of the subdivision in conformity with the common plan and design. The Committee is not required to police or enforce compliance with such considerations as minimum size, setbacks, or other specific, objective construction requirements. There shall be no review of any action of the Architectural Control Committee except by procedures for injunctive relief when such action is patently arbitrary and capricious; and under no circumstances shall such Committee, or any of its members, be subject to suit by anyone for damages.

- (7) Variances. Upon submission of a written request for same, the Architectural Control Committee may, from time to time, in its sole discretion, permit Owners to construct, erect, or install Improvements which are in variance from the covenants, restrictions or architectural standards which are provided in this Declaration or which may be promulgated in the future. In any case, however, such variances must, in the Committee's sole discretion, blend effectively with the general architectural style and design of the subdivision and must not detrimentally affect the integrity of Phase 10C nor the harmony with the natural surroundings. Written requests for variances shall be deemed to be disapproved if the Committee has not expressly and in writing, approved such request within thirty (30) days of the submission of such request. No member of the Committee shall be liable to any Owner for any claims, causes of action or damages arising out of the grant of any variance to an Owner. Each request for a variance submitted hereunder shall be reviewed separately and

VOL 6031 PG0736

apart from other such requests and the grant of a variance to any Owner shall not constitute a waiver of the Committee's right to strictly enforce this Declaration, the Umbrella Declaration and architectural standards provided hereunder, against any other Owner.

- (8) Issuance of Building Permit. Upon approval of final submittals, a building permit will be issued and construction may begin. All such permits must be prominently displayed at the job site and covered with clear plastic to prevent weathering.
- (9) Failure of the Committee to Act. Except as otherwise provided herein to the contrary, if the Architectural Control Committee fails to approve or to disapprove either the preliminary design plans or the final plans and specifications or to reject them as being inadequate within thirty (30) days after submittal thereof, it shall be conclusively presumed that such Committee has approved such preliminary design or plan or such final plans and specifications. If preliminary design plans or final plans and specifications are not sufficiently complete or otherwise inadequate, the Architectural Control Committee may reject them as being inadequate or may approve or disapprove part, conditionally or unconditionally, and reject the balance.
- (10) Limitation of Liability. Neither the Declarant, the Association, the Architectural Control Committee nor any of the members of such Committee shall be liable for damages or otherwise to anyone submitting plans and specifications for approval or to any Owner of land affected by this Declaration by reason of mistake or judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any plans and specifications.

#### ARTICLE VI.

##### SIZE OF DWELLING

The total floor area of any Dwelling shall not be less than two thousand seven hundred fifty contiguous square feet (2,750 sq.ft.), if one-story, and three thousand three hundred contiguous square feet (3,300 sq.ft.), if more than one-story. These areas shall be exclusive of open porches, breezeways, carports, garages and other outbuildings or areas of a similar nature which are typically not air conditioned.

#### ARTICLE VII.

##### OUTBUILDING REQUIREMENTS

Every outbuilding, inclusive of such structures as a storage building, greenhouse or children's playhouse, shall be compatible with the Dwelling to which it is appurtenant in terms of its design and material composition and shall not exceed one story in height. All such buildings shall be subject to the prior written approval of the Architectural Control Committee. Servants' quarters, guest quarters and detached garages shall not be considered outbuildings for the purposes of this Declaration.

#### ARTICLE VIII.

##### MASONRY REQUIREMENTS

The exterior walls of the Dwelling constructed on any Lot shall be at least seventy-five percent (75%) by area, composed of masonry or masonry veneer, said percentage to apply to the aggregate area of all said walls, exclusive of door, window and similar openings. Masonry or masonry veneer includes stucco, ceramic tile, clay, brick, rock and all other materials commonly referred to in the San Antonio, Texas building community as masonry. Notwithstanding the foregoing, the Architectural Control Committee is empowered to waive this masonry requirement if, in its sole discretion, such waiver is advisable in order to accommodate a unique or advanced building concept, design, or material, or to comply with historical authenticity standards of period architecture, and further provided that the resulting structure will not detract from the general appearance of the subdivision.

#### ARTICLE IX.

##### FENCES

All fences or walls in the subdivision shall be of the following compositions:

- (1) All masonry; or
- (2) All wrought iron; or
- (3) Any combination of wrought iron and masonry; or
- (4) Any other material that in the sole discretion of the Architectural Control Committee is compatible with the style of the main Dwelling and the surrounding Dwellings and habitat. No wood fences will be permitted.

VOL 6031 PG 0738



No fence, wall or hedge shall be built or maintained forward of the front wall line of the main Dwelling, except for retaining walls and decorative walls or fences which are part of the architectural design of the main Dwelling, provided the Architectural Control Committee approves of same in writing.

No chain-link fences may be built or maintained on any Lot.

No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two and six feet above roadways shall be placed or permitted to remain on any corner Lot within the triangular areas formed by the street property lines and a line connecting them at points twenty-five feet (25') from the intersection of the street lines or in the case of a rounded property corner, from the intersection of the street line extended. The same sight line limits shall apply on any Lot within ten feet (10') from the intersection of street property lines with the edge of a driveway. No tree shall be permitted to remain within such distance of such intersections, unless the foliage is maintained at a sufficient height to prevent obstruction of such sight lines.

No fence shall be higher than six feet (6') in height.

#### ARTICLE X.

##### DRIVEWAYS

All driveways and other hard surfaces shall be surfaced with concrete, brick, stone or other similar hard surfaced material. All concrete finished driveways and other hard surfaces must have a pebble finish or exposed aggregate surface or Bomanite type textural surface. No smooth finish concrete driveways or other hard surfaces are permitted. No asphalt driveways will be permitted.

#### ARTICLE XI.

##### TEMPORARY STRUCTURES

No structure of a temporary character -- trailer, tent, shack, garage, barn or other outbuildings -- shall be used on any Lot at any time as a residence, either temporarily or permanently. No trailer, camper, recreational vehicles, or similar vehicles shall at any time be connected to utilities situated within a Lot. No dwelling previously constructed elsewhere may be moved on any Lot in the subdivision. This covenant specifically includes the use of a mobile home in which the axle and wheels have been removed and placed upon a concrete slab, which said mobile home is hereby specifically prohibited as a residence, either temporarily or permanently, and further, specifically includes a mobile home or recreational vehicle upon which the wheels have been left attached. Notwithstanding the other provisions of this Declaration, the

Architectural Control Committee may, in its sole discretion, allow temporary structures to be used as construction/and or sales offices during the construction of Improvements on a Lot.

#### ARTICLE XII.

##### SIGNS

No signs of any kind shall be displayed to the public view on any Lot including, but not limited to, the displaying of any signs which advertise the Lot or Improvements for sale or lease, except as expressly permitted hereunder. The Architectural Control Committee may establish standardized sign criteria for Phase 10C which permits the displaying of one sign per Lot which is uniform in size, color and permitted location on the Lot, which sign can be used to specifically identify that a particular Lot is for sale or lease, provided, however, that said sign shall not contain the words "For Sale," "For Lease," "Available," or any other similar descriptive words. The Committee specifically reserves the right to establish a separate set of sign standards and criteria to apply during construction of the Dwellings on such Lots and a separate set of standards and criteria to apply to such Lots after a Dwelling has first been occupied thereon, and to modify such standards and criteria from time to time. Signs used by the Declarant, and approved by the Architectural Control Committee, to advertise the subdivision property during the development, construction and sales period shall be permitted, irrespective of the foregoing.

#### ARTICLE XIII.

##### MAINTENANCE

Grass, weeds, shrubs and all vegetation on each Lot sold shall be kept mowed and/or trimmed at regular intervals. Trees, shrubs, vines and plants which die shall be promptly removed from the Lot and promptly replaced. Lawns must be properly maintained, Improvements must be promptly repaired and maintained and no objectionable or unsightly usage of Lots will be permitted which is visible from any other Lot or to the public view. Building materials shall not be stored on any Lot except when being employed in construction on such Lot. Any excess materials not needed for construction and any building refuse shall promptly be removed from such Lot. All Lots shall be kept at all times sanitary, healthful, attractive and in a safe condition, in the sole judgement of the Association, and the accumulation of garbage, trash or rubbish of any kind thereon shall not be permitted.

In the event of default on the part of the Owner or occupant of any Lot in observing the above requirements (or any other reasonable requirements established from time to time by the Association and published to Owners, for the purpose of maintaining

a sanitary, healthful and attractive subdivision or for the purpose of complying with any of the maintenance requirements as provided in Section 2, Article VIII of the Umbrella Declaration) then, in such event, the Declarant or the Association may specifically enforce those provisions as provided in Section 2, Article VIII (and other parts) of such Umbrella Declaration, as recorded, and incorporated herein by reference, and those enforcement provisions contained herein and may have the grass, weeds, shrubs, trees, and vegetation cut or trimmed when and as often as the same is necessary in its judgment, and have dead trees and shrubs and plants removed therefrom. Declarant or the Association may also, at their option, remove any garbage, trash or rubbish situated on a Lot in violation of this covenant and make or repair Improvements as deemed required in its judgment. The Owner of any such Lot shall be obligated to reimburse Declarant or the Association for the cost of any such maintenance or removal or repair upon demand.

#### ARTICLE XIV.

##### UTILITY EASEMENTS

Easements for installation and maintenance of utilities, cable television and drainage facilities are reserved as shown on the recorded plat for Phase 10C and/or as provided by instruments of record or to be recorded. Within these easements, if any, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities; or in the case of drainage easements, which may change the direction of flow of water through drainage channels in such easements. The easement area of each Lot, if any, and all Improvements in such shall be maintained continuously by the Owner of the Lot, except for those Improvements for which a public authority or utility company using the easement is responsible. Neither Declarant, the Association, nor any utility company using the easements herein referred to shall be liable for any damage done by them or their assigns, agents, employees, or servants to shrubbery, streets or flowers or other property of the Owners situated on the land covered by said easements, except as may be required by state, county or municipal statutes, ordinances, rules or regulations or by the Association or by custom and practice of such utility company.

#### ARTICLE XV.

##### OUTSIDE PARKING AND STORAGE OF VEHICLES, ETC.

No trailer, tent, boat, recreational vehicle or stripped down, wrecked, junked, or wholly inoperable vehicle, equipment or machinery of any sort shall be kept, parked, stored, or maintained on any portion of the Lot unless completely enclosed within the garage of the residence. No commercial vehicle bearing commercial insignia or names shall be parked on any Lot except within an

enclosed structure or a screened area which prevents such view thereof from adjacent Lots and streets, unless such vehicle is temporarily parked for the purpose of serving such Lot. The Board of Directors of the Association is empowered to establish additional rules and regulations relating to the parking and storage of vehicles, equipment, and other property both on Lots and the Common Properties as it may from time-to-time deem necessary to ensure the preservation and appearance of the subdivision as a first class residential neighborhood and such rules and regulations shall, when promulgated, be in all respects binding on and enforceable against all Owners, provided, however, no such additional rules or regulation shall in any manner revoke or relax any of the restrictions of use set forth in this Article.

#### ARTICLE XVI.

##### NUISANCES

No noxious or offensive activity shall be carried on or upon a Lot or upon the Common Properties, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

No Owner shall do any act nor any work that will impair the structural soundness or integrity of another residence or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other residences or their Owners. No blasting shall be conducted on any Lot.

No exterior lighting of any sort shall be installed or maintained on a Lot where the light source is offensive or a nuisance to neighboring property (except reasonable security or landscape lighting that has approval of the Architectural Control Committee). Upon being given notice by the Association that any such lighting is objectionable, the Owner shall take all necessary steps to properly shield same in a manner that affords consideration to those Lot Owners disturbed thereby.

No exterior speakers, horns, whistles, bells or other sound devices (except security devices such as entry door and patio intercoms used exclusively to protect the Lot and Improvements situated thereon) shall be placed or used upon any Lot.

#### ARTICLE XVII.

##### GARBAGE AND REFUSE DISPOSAL: TRASH RECEPTACLE AREAS

No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall at all times be kept in a screened receptacle area (constructed of the same materials as exterior walls of the Dwelling) with a solid gate,

meeting the standards and criteria established by the Architectural Control Committee, and in no event shall any garbage or trash containers be placed on any Lot within the view of any street or other Lot. No trash, ashes or other refuse may be thrown, dumped or burned on any vacant Lot, greenbelt or other area in said subdivision.

#### ARTICLE XVIII.

##### ANIMALS

No sheep, goats, horses, cattle, swine, poultry, snakes, livestock, or other animals of any kind shall ever be raised, kept, bred, or harbored on any portion of the subdivision, except that dogs, cats, or other common household pets (not to exceed a total of three (3) adult animals (adult animal for the purposes of these covenants is an animal which is one (1) year of age or older) may be kept, provided that they are not kept, bred, or maintained for any commercial purposes and provided further that such common household pets shall at all times, except when they are confined within the boundaries of a private single-family residence or Lot upon which same is located, be restrained or controlled by a leash, rope, or similar restraint or a basket, cage or other container. Any such basket, cage or other container shall not be readily visible from the street or adjacent properties.

#### ARTICLE XIX.

##### OIL AND MINING OPERATIONS

No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot. No tank for the storage of oil or other fluids may be maintained on any of the Lots.

#### ARTICLE XX.

##### INDIVIDUAL WATER AND SEWAGE SYSTEMS

No individual water supply system or sewage disposal system shall be permitted on any single family residential Lot, including, but not limited to, water wells, cesspools or septic tanks.

VOL 6031 PG 0743

ARTICLE XXI.

RADIO OR TV ANTENNA  
SOLAR PANELS

No radio or television aerial wires, towers, antennae, discs, satellite dishes, solar panels, or other special television or cable apparatus or equipment shall be erected, installed, or placed on any Lot without the prior written approval of the Architectural Control Committee which shall have the authority to disapprove the installation of same, and in no event shall the same, or any portion thereof, be visible from the street or any other Lot.

ARTICLE XXII.

DRAINAGE EASEMENTS

Easements for drainage throughout the subdivision are reserved as shown on the recorded plat for Phase 10C, such easements being depicted as "drainage easements." No Owner of any Lot in the subdivision may perform or cause to be performed any act which would alter or change the course of such drainage easements in a manner that would divert, increase, accelerate or impede the natural flow of water over and across such easements. More specifically, and without limitation, no Owner may:

- (1) alter, change or modify the existing natural vegetation of the drainage easements in a manner that changes the character of the original environment of such easements; or
- (2) alter, change or modify the existing configuration of the drainage easements, or fill, excavate or terrace such easements or remove trees or other vegetation therefrom without the prior written approval of the Architectural Control Committee; or
- (3) construct, erect or install a fence or other structure of any type or nature within or upon such drainage easement; provided however, fences may be permitted in the event proper openings are incorporated therein to accommodate the natural flow of water over said easement; or
- (4) permit storage, either temporary or permanent, of any type upon or within such drainage easements; or
- (5) place, store or permit to accumulate trash, garbage, leaves, limbs or other debris within or upon the drainage easements, either on a temporary or permanent basis.

YOL 6031 PG0744

The failure of any Owner to comply with the provisions of this Article shall in no event be deemed or construed to impose liability of any nature on the Architectural Control Committee and/or Declarant, and such Committee and/or Declarant shall not be charged with any affirmative duty to police, control or enforce such provisions. The drainage easements provided for in this Article shall in no way affect any other recorded easement in the subdivision.

#### ARTICLE XXIII.

##### MAIL BOXES

Centralized mail boxes shall be provided as part of the Common Properties. No other mail boxes shall be erected or maintained within Phase 10C.

#### ARTICLE XXIV.

##### ATHLETIC FACILITIES

No basketball goals or backboards or any other similar sporting equipment of either a permanent or temporary nature shall be placed on any Lot in the subdivision where same would be readily visible from the street. Basketball goals and backboards must have black poles and clear acrylic backboards. Tennis courts shall not be permitted without the express written permission of the Architectural Control Committee, and in no event shall be permitted on any Lot smaller than .75 acres. If a tennis court is approved, tennis court lighting and fencing shall also require the prior written approval of the Architectural Control Committee.

#### ARTICLE XXV.

##### GARAGES

A garage able to accommodate at least two (2) but not more than four (4) automobiles must be constructed and maintained for each residence. The entrance to the garage must not be readily visible from the street, and must be properly screened therefrom. Automatic/electric garage door openers shall be required for all garages. Interior walls of all garages must be finished (i.e., taped, bedded and painted as a minimum). No garage shall be permitted to be used or enclosed for living purposes, but must be maintained for storage of automobiles and other vehicles and related purposes.

VOL 6031 PG 0745

ARTICLE XXVI.

ROOFS

The surface of all roofs of Dwellings, garages and outbuildings shall be of slate, stone, concrete tile, clay tile or metal with standing seams. No composition roofs or wood shingles or wood shakes shall be permitted.

A sample of all roofing materials must be submitted to the Architectural Control Committee for approval based on quality, color and compatibility with other structures in the subdivision prior to the installation thereof.

ARTICLE XXVII.

YARD LIGHTS

Each Owner shall construct (at the same time that the Dwelling is constructed) a yard light which shall be a free standing lamp post with a lamp fixture affixed at the top. The lamp shall be either a gas light or an electric light activated by a photo-electric type timer which turns the light on at sundown and off at sunrise. The maximum height and location of the lamp post shall be determined by the Architectural Control Committee. No bypass switch shall be installed for the yard light. The light shall remain illuminated after sundown and until sunrise.

ARTICLE XXVIII.

HOUSE NUMBERING

House numbers identifying the address of each house must be placed as close as possible to the front entry, with the same being readily visible from the street, and shall be illuminated so that the numbers can be easily read from the street at night. Size, color and material of the numbers must be compatible with the design and color of the Dwelling.

ARTICLE XXIX.

WINDOW TREATMENT

No aluminum foil, reflective film, paper, or similar treatment shall be placed on windows or glass doors at any time.

VOL 6031 PG 0746



ARTICLE XXX.

BURGLAR AND FIRE ALARMS

Each Dwelling constructed on a Lot shall be pre-wired for perimeter burglar and fire alarm systems covering all exterior doors, entries and windows and such type, number, and location of smoke detectors as stipulated by the ordinances and/or building codes of the City of San Antonio then in effect. The Committee may establish, from time to time, minimum standards for such burglar alarm systems and smoke detectors and shall, at such time, make the same available to Owners and may disapprove any plans and specifications not conforming to this provision or such standards.

ARTICLE XXXI.

SETBACK LINES

All buildings or other roofed structures, permanent or temporary, habitable or not, must be constructed, placed and maintained in conformity with platted setback lines, and in no event shall any such building or other structure be constructed, placed or maintained within thirty feet (30') from any street, or within twenty-five feet (25') of the rear boundary of a Lot, or within ten feet (10') to each of the side boundaries of such Lot (with the exception of corner lots). Notwithstanding the foregoing, Lots 12, 13, 18, 19 and 20, Block 5, all in Phase 10C shall be subject to a setback of fifty feet (50') where such Lots abut Lots 4, 5, 6, 7, 8, 9, 10 and 11, Block 5, Phase 1, The Dominion Planned Unit Development. The aforesaid area within such fifty foot (50') setback shall be left in as natural a state as practicable; provided, however, that weeds and underbrush shall be cleared and mowed at regular intervals, it being the intent of this provision that all trees remain in such fifty foot (50') setback.

The setback line requirements herein specified may be waived by the Architectural Control Committee in order to save trees, to promote a unique or advanced building concept or design, or to take into account special or extraordinary characteristics of the Lot or the plan of the Dwelling to be constructed thereon, but only in the event such waiver will not, in the opinion of such Committee, result in or cause a detriment to adjoining Lots or damage the serenity and beauty of the natural or built surroundings, or encroach upon any other Lot or utility easement or result in any building being located closer than fifteen feet (15') to a Dwelling on an adjacent Lot. Outbuildings, provided they do not exceed one story in height, may be placed as close as ten feet (10') to a rear property line, except on Lots 12, 13, 18, 19, and 20, Block 5, Phase 10C, where a fifty foot (50') setback must be maintained where property lines abut Lots 4, 5, 6, 7, 8, 9, 19 and 11, Block 5, Phase 1. The eaves of buildings, fireplaces and steps shall not be deemed to be a part of a building or structure, but covered

VOL 6031 PG 747

porches shall be deemed to be a part of a building or structure for the purpose of this covenant. However, in no case should an Improvement, including driveways but excluding landscaping and fences, be permitted closer than five feet (5') from a property line. Any Owner of one or more adjoining Lots may consolidate such Lots into one single family residence building site, with the privilege of placing or constructing Improvements on such resulting site, in which case, setback lines shall be measured from the resulting side property lines rather than from the Lot lines as indicated on the plat or in this Declaration.

#### ARTICLE XXXII.

##### HEIGHT LIMITATIONS

The maximum height of any Dwelling, garage, servants' quarters, guest quarters or outbuilding in Phase 10C shall be at the sole discretion of the Architectural Control Committee, it being the Committee's intention to leave views unobstructed as much as practicable.

#### ARTICLE XXXIII.

##### IRRIGATION

All Lots must be irrigated by sprinkler systems approved by the Architectural Control Committee and in accordance with the irrigation plan approved by the Committee. In all such systems, a pressure type vacuum breaker or a double check valve backflow preventer as approved by the City of San Antonio must be installed to prevent contamination of the domestic water supply for the subdivision. All sprinkler systems must be designed and installed in accordance with all applicable ordinances or government regulations.

#### ARTICLE XXXIV.

##### GUTTERING

All Dwellings must be guttered with downspouts being so situated as to minimize adverse drainage consequences for adjoining Lots.

#### ARTICLE XXXV.

##### TREE PROTECTION

Trees on any individual Lot will potentially be enjoyed by and benefit all residents in the subdivision, and consequently it is the Declarant's and the Association's intent to retain the overall character of the tree massing in the subdivision. To prevent the unnecessary damage or death to existing trees, the Lot Owner, his

architect, and/or builder are encouraged to refer to and follow the Tree Care and Protection Procedures as promulgated from time to time by the Architectural Control Committee.

#### ARTICLE XXXVI.

##### LANDSCAPING

Any landscaping required by the plans and specifications approved by the Architectural Control Committee must be fully installed on a Lot within ninety (90) days from the first occupancy of the Dwelling situated on such Lot in accordance with the landscape plan approved by the Architectural Control Committee. In view of the major emphasis placed by Declarant and the Architectural Control Committee on landscaping, the Committee expressly reserves the right to require the landscape plan to include the planting of trees by Owner if in the opinion of the Committee such trees are necessary to preserve the general landscaping goals and criteria for the subdivision as a whole. No more than ten percent (10%) in area of the front yard area of any Lot (excluding driveways and sidewalks) may be covered by material other than vegetation and such material shall have been approved by the Architectural Control Committee.

#### ARTICLE XXXVII.

##### FIREARMS, PROJECTILES, WEAPONS AND FIREWORKS

The discharge of any firearm, including, but not limited to BB guns and pellet guns, and the discharge of any fireworks within the subdivision or adjacent lands owned in whole or in part by Declarant or located within The Dominion Planned Unit Development, is strictly prohibited and each Owner shall ensure that his guests and family members do not violate such prohibition. Additionally, the use of any bow and arrow, slingshot, or other launching or catapulting device is strictly prohibited.

#### ARTICLE XXXVIII.

##### SUBDIVISION OR COMBINATION OF LOTS

No further subdivision of platted Lots in Phase 10C shall be permitted. An Owner may, however, combine or integrate two adjoining Lots into one Dwelling and landscaped area or three (3) adjoining Lots into two (2) Dwellings and landscaped areas at the time any of said Lots are first improved, it being understood that no Lot can remain vacant and unimproved.

VOL 6031 PG0749

ARTICLE XXXIX.

WAIVER AND LACHES

The obligation to abide by the provisions contained in this Declaration shall be deemed to be of a continuing and continual basis. Each and every day an Owner allows a condition to exist on his or her Lot which is not in compliance with the requirements contained herein shall constitute a separate and individual violation hereof, and shall give rise to a new cause of action for such breach. The intended effect and express purpose of this provision shall be that every Owner, by accepting title to a Lot, hereby waives the affirmative defenses of the statute of limitations, waiver, and laches with respect to covenant violations. Noncompliant conditions shall be allowed to exist on a Lot only upon the Owner obtaining a written variance in accordance with the applicable provisions herein. Failure of the Declarant, the Association, the Architectural Control Committee, or of any Owner to enforce the terms of this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE XL.

TERM

The foregoing covenants are made and adopted to run with the land and shall be binding upon Declarant, its successors and assigns and all persons claiming under them, and all subsequent Owners of Lots located within the subdivision for a term beginning on the date this Declaration is recorded and continuing through and including January 1, 2033, after which time said covenants shall be extended automatically for successive periods of ten (10) years each, unless an instrument signed by the Owners of legal title to seventy percent (70%) of the Lots within the subdivision controlled by these covenants has been recorded agreeing to change said covenants in whole or in part, or to revoke them. No person or corporation shall be liable for breach of these covenants and restrictions except in respect to breaches occurring or committed during its, his or their ownership of the Lots located within the subdivision involved in such breach. Deeds of conveyance of said property, or any part thereof, may contain the above restrictive covenants by reference to this Declaration, but whether or not such reference is made, each and all of such restrictive covenants shall be valid and binding upon the respective grantees.

ARTICLE XLI.

COVENANT ENFORCEMENT

Declarant, the Association, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all covenants, conditions, restrictions, easements, reservations, liens, and

charges now or hereafter imposed by the provisions of this Declaration. Neither the Declarant nor The Dominion Homeowners Association shall ever be under any obligation to enforce the terms of this Declaration, and any failure to so enforce shall never give rise to any liability whatsoever on the part of Declarant, Declarant's successors or assigns, the Association, or the Board of Directors of the Association. By the acceptance of a deed to any portion of the above-described property, each Owner agrees to submit to binding arbitration to resolve such covenant violation. Such arbitration shall be in compliance with the rules and procedures of the American Arbitration Association. The arbitrators decision shall be final, and shall be subject to judicial review only upon the demonstration of prejudicial bias or prejudice on the part of the arbitrator. In the event an Owner fails or refuses to participate in the arbitration, is involved in other litigation with the Association or Declarant, or in the event that immediate action is deemed by the Declarant or the Board of Directors of the Association to be required to promote the purposes of this Declaration and further to stop immediate and irreversible harm, the Declarant or the Association may proceed directly to court and may institute litigation and seek whatever remedies, whether legal or equitable, to which it may show itself to be entitled.

#### ARTICLE XLII.

##### ASSESSMENTS BY AWARD OR JUDICIAL DECREE

In the event arbitration or litigation is necessary to enforce any provision contained within this Declaration, any and all awards granted by the arbitrator, or damages penalties, fees, costs, and/or any other charges awarded in the decree shall also constitute an assessment, which shall likewise "run with the land". Failure to pay assessments imposed under this Section shall constitute an event which may give rise to the remedies provided in Article XLIII herein.

#### ARTICLE XLIII.

##### INVALIDATION

The invalidation of any one of these covenants by judgment or court order shall in nowise affect any of the other provisions, which shall remain in full force and effect.

#### ARTICLE XLIV.

##### NONJUDICIAL FORECLOSURE

To secure the payment of maintenance assessments and to ensure compliance with the applicable covenants, conditions, restrictions and easements set forth herein, each Owner, upon acceptance of his

or her deed to a Lot governed by this Declaration conveys the Lot to the Trustee hereinafter named, in trust for so long as these covenants, conditions, restrictions and easements shall remain in effect, such conveyance operating as a Special Deed of Trust. If an Owner fails to tender payment of maintenance assessments when due, or if an Owner fails to perform any or the Obligations under or maintain any condition required by this Declaration, the Association may perform those obligations, advance whatever funds may be required, and then be reimbursed by the Owner on demand for any sums so advanced, including attorney's fees, plus interest on those sums from the dates of payment at the highest legal rate. The sum to be reimbursed shall be secured by this Special Deed of Trust.

If the Owner fails on demand to reimburse the Association for the sums advanced or for the assessments owed, and such failure continues after the Association gives the Owner notice of the failure and the time within which it must be cured, as may be required by law or by written agreement, then the Association, as the Beneficiary of this Special Deed of Trust may:

1. Request the Trustee appointed herein, or his successor, to foreclose the liens created herein, in which case the Association shall give notice of the foreclosure sale as provided by Section 51.002 et seq of the Texas Property Code then in effect or any successor statute thereto; and

2. Purchase the Lot at any foreclosure sale by offering the highest bid and then have the bid credited to the reimbursement or satisfaction of the outstanding indebtedness owed to the Association.

If requested by the Association to foreclose this lien, the Trustee shall:

- (a) Either personally or by agent give notice of the foreclosure sale as required by Section 51.002 et seq of the Texas Property Code then in effect, or any successor statute thereto;

- (b) Sell and convey the Lot to the highest bidder for cash with a general warranty binding the Owner, subject to prior liens and to other exceptions to conveyance and warranty; and

- (c) From the proceeds of the sale, pay, in this order:

- (i) expenses of foreclosure, including a commission to Trustee of 5% of the successful bid;

- (ii) to the Association, the full amount advanced, attorney's fees, and other charges due and unpaid;

VOL 6031 PG 0752

(iii) any amounts required by law to be paid before payment to the Owner; and

(iv) to the Owner, any remaining balance.

3. Christopher J. Weber, Attorney at Law, is appointed Trustee for the purpose of enforcing the covenants, conditions and restrictions imposed by this Declaration, and also for the collection of maintenance assessments. The Association, as Beneficiary, may appoint in writing a substitute or successor trustee, succeeding to all rights and responsibilities of the Trustee appointed herein.

4. From and after any such foreclosure, the occupants of such Lot shall be required to pay a reasonable rent for the use of such Lot and such occupancy shall constitute a tenancy-at-sufferance. The purchaser at such foreclosure shall be entitled to the appointment of a receiver to collect such rents and, further, shall be entitled to sue for recovery of possession of such Lot by forcible detainer without further notice.

5. It is the intent of the provisions of this Section to comply with the provisions of Section 51.002, et seq of the Texas Property Code, relating to non-judicial sales by power of sale and, in the event of the amendment of said Section 51.002 hereafter, such amendment is applicable hereto, the President of the Association, acting without joinder of any Owner or mortgagee of any Owner, may, by amendment to this Declaration filed in the Office of the County Clerk of Bexar County, Texas, amend the provisions hereof so as to comply with said amendments to Section 51.002.

6. Any liens created by this Article XLIV shall be superior to all other liens and charges against any Lot covered hereby except only for tax liens and all sums secured by a first-priority mortgage or deed of trust lien of record, securing in either instance sums borrowed for the purchase or improvement of the Lot in question.

#### ARTICLE XLV.

##### RESERVATION OF RIGHTS

The Declarant shall have and reserves the right at any time and from time to time, without the joinder or consent of any other party to amend this Declaration or any future Declaration of Protective Covenants, by any instrument in writing duly signed, acknowledged, and filed for record for the purpose of correcting any typographical or grammatical error, ambiguity or inconsistency appearing herein, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme

of development as evidenced by this Declaration and shall not materially impair or affect the vested property or other rights of any Owner or his mortgagee.

#### ARTICLE XLVI.

##### AMENDMENT

At any time the Owners of the legal title to seventy percent (70%) of the Lots within the subdivision (Phase 10C) may amend the restrictions and covenants set forth herein by filing an instrument containing such amendment in the office of the County Clerk of Bexar County, Texas; except that, prior to January 1, 1999, no such amendment shall be valid or effective without the written joinder of Declarant and the Association, unless Declarant and the Association specifically waives this requirement by a written recorded instrument.

#### ARTICLE XLVII.

##### NOTICE BY ASSOCIATION

Whenever written notice to a member (or members) is permitted or required hereunder, such shall be given by the mailing of such to the member at the address of such member appearing on the records of the Association, unless such member has given written notice to the Association of a different address, in which event such notice shall be sent to the member at the address so designated. In such event, such notice shall conclusively be deemed to have been given by the Association by placing same in the United States mail, properly addressed, whether received by the addressee or not.

#### ARTICLE XLVIII.

##### TITLES

The titles, headings and captions which have been used throughout this Declaration are for convenience only and are not to be used in construing this Declaration or any part hereof.

#### ARTICLE XLIX.

##### INTERPRETATION

If this Declaration or any word, clause, sentence, paragraph, or other part thereof shall be susceptible of more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration shall govern.



ARTICLE L.

OMISSIONS

If any punctuation, word, clause, sentence, or provision necessary to give meaning, validity, or effect to any other word, clause, sentence or provision appearing in this Declaration shall be omitted herefrom, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause sentence or provision shall be supplied by inference.

ARTICLE L.

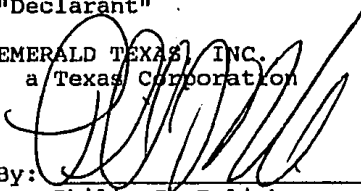
GENDER AND GRAMMAR

The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the necessary grammatical changes required to make the provisions herein apply either to corporations or individuals, males or females, shall in all cases be assumed as though in each case fully expressed.

EXECUTED this the 24<sup>th</sup> day of FEBRUARY, 1994.

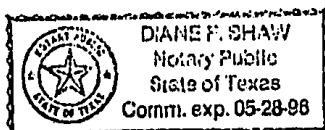
"Declarant"

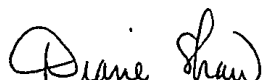
EMERALD TEXAS, INC.  
a Texas Corporation

By:   
Philip J. Polich  
Chairman

STATE OF TEXAS §  
COUNTY OF BEXAR §

This instrument was acknowledged before me on the 24<sup>th</sup> day of FEBRUARY, 1994, by Philip J. Polich, Chairman of Emerald Texas, Inc., a Texas corporation, on behalf of said corporation.



  
Notary Public in and for the  
State of Texas

After Recording, Return To:  
Susan Wright  
The Dominion Homeowners Association  
10 Dominion Drive  
San Antonio TX 78257

Any provision herein which restricts the sale, rental, 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 60 on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Records of Real Property of Bexar County, Texas on:

APR 15 1994



*Robert D. Green*  
 COUNTY CLERK BEXAR CO.

Filed for Record in:  
 BEXAR COUNTY, TX  
 ROBERT D. GREEN/COUNTY CLERK  
 On Apr 11 1994  
 At 3:40pm  
 Receipt #: 35009  
 Recording: \$1.00  
 Doc/Fgmt: 6.00  
 Doc/Num: 94-0065121  
 Deputy -Janie Sanchez

YOL 5031 PG0756