



**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
MILWOOD SECTION THIRTY-EIGHT C**

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

This Declaration of Restrictions ("Declarant") is made this 27th day of May, 2004, by **MILBURN INVESTMENTS, INC., a Texas corporation, f/k/a/ Continental Homes of Texas, L.P., a Texas limited partnership, f/k/a/ Continental Homes of Austin, L.P., doing business as Milburn Homes** hereinafter called "Declarant".

WITNESSETH:

WHEREAS, Declarant owns all of the lots in MILWOOD SECTION THIRTY-EIGHT C, a subdivision in Williamson County, Texas, according to the map or plat thereof recorded in Cabinet X, Slides 112-114, Plat Records of Williamson County, Texas, to which plat and its recorded reference is here made for all purposes (hereinafter called the "Subdivision"), and desires to encumber the lots in the Subdivision with the covenants, conditions, restrictions, reservations and charges hereinafter set forth, which shall inure to the benefit and pass with the property, each and every parcel or resubdivision thereof, and shall apply to and bind the successors in interest and any other owner thereof:

NOW THEREFORE, Declarant, the sole owner in fee simple of the Subdivision, hereby declares that all lots in the Subdivision shall be held, transferred, sold and conveyed, subject to the following covenants, conditions, restrictions, reservations and charges, hereby specifying and agreeing that this Declaration and the provisions hereof shall be and do constitute covenants to run with the land and shall be binding on Declarant, its successors and assigns, and all subsequent owners of each lot, and the owners by acceptance of their deeds for themselves, their heirs, executors, administrators, successors and assigns, covenant and agree to abide by the terms and conditions of this Declaration.

I.

PROPERTY SUBJECT TO THE DECLARATION

The property which is and shall be held, transferred, sold and conveyed, subject to the covenants, conditions, restrictions, reservations, and charges hereinafter set forth is described as follows:

All of the lots in Milwood Section Thirty-Eight C, a subdivision in Williamson County, Texas, according to the map or plat thereof recorded in Cabinet X, Slides 112-114, Plat Records of Williamson County, Texas (hereinafter referred to as the "Property").

II.

COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS AND CHARGES

The property described in Section I hereof is encumbered by the covenants, conditions, restrictions, reservations and charges hereinafter set forth to insure the best and highest use and the most appropriate development and improvements of each lot for residential purposes within said subdivision; to protect owners of lots against improper use of surrounding lots; to preserve so far as practicable, the natural beauty of said Property; to guard against the erection of poorly designed or proportioned structures of improper or unsuitable materials; to encourage and secure the erection of attractive improvements on each

maintain proper setbacks from streets and adequate free space; and, in general, to provide for development of the highest quality to enhance the value of investments made by owners.

A. Land Use and Building Types. The lots shall be used solely for private single family residential purposes. On each residential lot no detached, single family dwelling not to exceed two(2) stories in height, with or attached private garage or carport for not more than two (2) cars. No building shall remain incomplete for more than one (1) year after construction has been commenced.

B. Antennae. No exterior radio, television antenna or aerial, guy wire, or satellite dish antenna shall be erected or maintained without the prior written approval of the Architectural Control Committee.

C. Architectural Control. No building, wall, fence or any other improvement shall be erected or placed on, nor shall any building, wall, fence, or any other improvement be altered, modified, added to or removed from any lot until the construction plans and specifications thereof and a plan showing the location of all buildings, walls, fences and other improvements, including, but not limited to, driveways and setbacks, have been approved in writing by the Architectural Control Committee, hereinafter called "Committee". Nor shall the topography of the lot be enlarged in any way which will impede, restrict or in any way divert the flow of water without the prior written approval of the Committee. The approval of the Committee shall not be unreasonably or whimsically withheld.

The Committee shall be composed of three (3) members. The original members of the Committee shall be assigned by the Declarant. Each Committee member shall serve at the pleasure of the Declarant. In the event of the death, resignation or removal of any member of said Committee, the remaining member or members will have full authority to act until the member or members have been replaced. A decision of a majority of the Committee shall be binding on all members thereof.

The Committee is considering each set of plans and specifications and the plan showing the location of all improvements shall consider, among other things, the quality of design and materials, harmony of the design with existing structures and location with respect to topography and finished grade elevation.

The Committee's approval or disapproval of the plans and specifications and plot plan for the improvements to be erected or placed on a lot, or the plans and specifications for the alteration, modification, addition to or removal of any improvements located on a lot, shall be granted within thirty (30) days after the same have been submitted to the Committee; if the Committee's approval or disapproval is not so granted within such thirty (30) days, then in that event the same shall be deemed approved and this covenant complied with. All plans and specifications shall be delivered to the Committee not less than thirty (30) days prior to the date construction is to be commenced at its office at 12554 Riata Vista Circle, Suite 200, Austin, Texas 78727, or any such other address as it may designate, by certified mail, return receipt requested, or delivered and a written receipt received therefore, and the date received by the Committee shall be considered the date of delivery to the Committee.

Anything herein to the contrary notwithstanding, the Committee is hereby authorized, at its sole discretion, to waive any requirements relating to carports, dwelling size, masonry requirements, fences and setbacks and such decisions shall be binding on all owners of lot s encumbered by this Declaration.

D. Dwelling Size. The ground floor area of the main structure of the single story, single-family residence shall be not less than One Thousand Two Hundred (1200) square feet, excluding all open and covered porches and garage units. If more than one (1) story, the combined area for the first and second floors shall be not less than One Thousand Three Hundred Fifty (1,350) square feet. The Architectural Control Committee may approve a dwelling size containing less square feet, but such approval must be in writing.

E. Easements and Setbacks. Easements reserved and setback requirements are those set forth on the plat of record of the Subdivision on file in the Plat Records of Williamson County, Texas, and other such easements dedicated by separate instrument on file in the Official Records of Williamson

County, Texas. Within these easements, 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 which may change the direction of flow or drainage channels in the easements, or which may obstruct or retard the flow of water. The easement area of each lot shall not be fenced out of the lot and shall be maintained continuously by the owner of the lot.

F. Fences. No fence, wall or hedge shall be erected, placed or altered on a lot nearer to the front street than the front wall of the house situated on such lot.

G. Garbage and Refuse. No lot shall be used or maintained as a dumping ground for trash, garbage or other waste and the same shall not be kept, except in sanitary containers. Each lot owner shall contract with an independent disposal service to collect all garbage or other waste, if such service is not provided by the City of Austin.

H. Hazardous Activities. No activities may be conducted on the Property and no improvements constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged upon the Property, and no open fires shall be lighted or permitted except within safe and well designed interior fireplaces, or in contained barbecue units which are attended and in use for cooking purposes only.

I. Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except any owner may keep no more than two (2) dogs, two (2) cats, or two (2) other household pets, provided they are not kept, bred or maintained for any commercial purpose.

J. Maintenance, Alteration or Removal of Improvements. All improvements upon any of the Property shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner thereof. The opinion of the Committee as to condition and repair shall be final. Any construction, other than normal maintenance, which in any way alters the exterior appearance of any improvements or the removal of any improvements within the Property shall be performed only with the prior written approval of the Committee.

K. Masonry. Each dwelling shall have not less than ten percent (10%) of the exterior walls of masonry construction; provided, however, the Architectural Control Committee may waive this requirement in whole or in part, but any such waiver must be in writing.

L. Noise. No exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any of the Property. No noise or other nuisance shall be permitted to exist or operate upon any other portion of the Property or to its occupants.

M. Nuisances. No noxious or offensive activities shall be conducted on or upon any lot, nor shall anything be done thereon which opposed to the purpose of these restrictions.

N. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any character shall be permitted upon any lot.

O. Signs. No signs of any kind shall be displayed for public view on any lot, except for the following: One (1) sign of not more than five (5) square feet, advertising the Property for sale or rent; signs used by builders to advertise the Property for sale; and directional and marketing signs of not more than four (4) feet by eight (8) used by the developer and builders for marketing purposes. All merchandising, advertising and sales programming shall be subject to the approval of the Committee.

P. Subdividing. No Lot shall be further divided or subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written approval of the 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 Control Committee.

Q. Temporary Structures. No structure of a temporary character, mobile home, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporary or permanent. No building may be moved on any lot. No racing vehicle, or any vehicle without a current license plate shall be permitted to remain on any lot or be parked on a street adjoining a lot.

R. Unightly Articles; Vehicles. No article deemed to be unsightly by the Committee shall be permitted to remain on any Lot so as to be visible from adjoining property or public thoroughfares. Without limiting the generality of the foregoing, trailers, graders, trucks other than pickups, boats, tractors, campers, wagons, buses, motorcycles, motor scooters and garden maintenance equipment shall be kept at all times, except when in actual use, in enclosed structures or kept at all times, in enclosed structures or screened from view and no repair or maintenance work shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in enclosed garages or other structures. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view and no lumber, grass, plant waste, shrubs or tree clippings, metals, bulk materials, scraps, refuse, or trash of any kind shall be kept, stored or allowed to accumulate on the portion of the Property except within enclosed structures or appropriately screened from view.

III.

SIDEWALKS

The owner of each lot shall construct, at his cost and expense and prior to his occupancy of the dwelling, sidewalks, if any, as set forth on the recorded subdivision plat. This provision may not be amended or altered in any way without the prior written approval of the City of Austin Planning Department.

IV.

TERM

These covenants are to run with the land and shall be binding on all persons claiming under them until May 27, 2034, at which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless by a vote of a majority of the then owners of the lots encumbered by this Declaration, it is agreed to change said Declaration in whole or in part.

Any such instrument of amendment or termination must be executed and acknowledged by fifty-one percent (51%) of the then owners of lots encumbered by this Declaration and filed of record in the Official Records of Williamson County, Texas. The instrument of amendment or termination shall be effective to amend or terminate this Declaration at the expiration of the initial year term, if such instrument is filed of record as set forth above during the initial term hereof; or if such instrument is filed of record as set forth above during any ten (10) year period of extension, this Declaration shall be amended or terminated (as the case may be) at the end of such ten (10) year period of extension. Notwithstanding anything contained herein to the contrary, the Declarant, its successors or assigns, may amend these covenants at any time, or from time to time, in order to correct any typographical errors or other errors or omissions which, in the discretion of the Declarant, its successors or assigns, may require amendment in order to properly reflect the intent hereof. Such amendments to correct typographical or other errors shall be effective on the date that such an amendment is filed of record in the Official Records of Williamson County, Texas, by the Declarant, its successors or assigns. Notwithstanding anything hereinabove, no amendment shall be effective until the approval of any governmental regulatory body which is required shall have been obtained.

V.

EXTERIOR MAINTENANCE

In any event the owner of any lot shall fail to maintain the premise and the improvements situated therein in a neat and orderly manner, the Architectural Control Committee shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and exteriors of the buildings and any other improvements erected thereon, all at the expense of the owner.

VI.

ENFORCEMENT

If the owner of any lot, or his heirs, executors, administrators, successors, assigns or tenants shall violate or attempt to violate any of the covenants set forth in this Declaration, it shall be lawful for any person, or persons, owning any lot encumbered by this Declaration, or Declarant, to prosecute any proceedings against the person, or person, violating, or attempting to violate, any such covenants. The failure of the owner or tenant to perform his obligations hereunder would result in irreparable damage to the Declarant and other owners of lots in the Subdivision, thus the breach of any provisions of this Declaration may not only give rise to an action for damages at law, but also may be enjoined by an action for specific performance in equity in any court of competent jurisdiction. Such action may be brought against any person, firm or corporation violating, or apparently about to violate, any of these covenants, either before such violation occurs or within a reasonable time thereafter, or an appropriate order or injunction of either a restraining or mandatory nature, or both, and or either a temporary or permanent nature, or both, including, but not limited to, one restraining construction of any improvements commenced, or about to be commenced, without the prior written approval of the Committee or for the removal of any improvement constructed without the prior written approval of the Committee. In the event enforcement actions are instituted and the party bringing such action is successful in obtaining any relief, then in addition to the remedies specified above, the party or parties against whom such relief was granted shall pay to the enforcing party costs and reasonable attorney's fees in such amount as the court may determine. Failure to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

VII.

SEVERANCE.

In the event any of the foregoing covenants, conditions, restrictions, reservations or charges is held invalid or unenforceable by a court of competent jurisdiction, it shall not affect the validity and enforceability of the other covenants, conditions, restrictions, reservations or charges. If one of the foregoing is subject to more than one interpretation, the interpretation which more clearly reflects the intent hereof shall be enforced.

VIII.

NUMBER AND GENDER

The singular shall be treated as the plural and vice versa, if such treatment is necessary to interpret this Declaration. Likewise, if either the feminine, masculine or neuter gender should be any of the other genders, it shall be so treated.

EXECUTED this 27th day of May, 2004.

MILBURN INVESTMENTS, INC.
a Texas corporation, f/k/a Continental
homes of Texas, L.P., a Texas limited
partnership, f/k/a/ Continental Homes of
Austin, doing business as Milburn Homes.

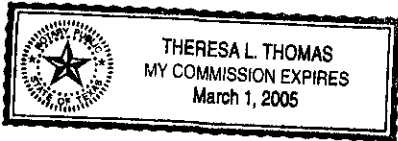
By: *Richard Maier*
Printed Name: RICHARD MAIER
Title: VICE PRESIDENT

THE STATE OF TEXAS
COUNTY OF TRAVIS

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KNOW ALL MEN BY THESE PRESENTS:

This instrument was acknowledged before me on the 27th day of May, 2004, by
Richard Maier, Vice President of Milburn Investments, Inc., a Texas
corporation, , f/k/a Continental homes of Texas, L.P., a Texas limited partnership, f/k/a/ Continental Homes
of Austin, doing business as Milburn Homes, on behalf of said corporation.



Theresa L. Thomas
Notary Public, State of Texas

AFTER RECORDING, RETURN TO:

Theresa Thomas
D.R. Horton, Inc.
12554 Riata Vista Circle, Suite 200
Austin, Texas 78727

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS 2004042866

Nancy E. Rister

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CARRILLO \$24.00

NANCY E. RISTER, COUNTY CLERK
WILLIAMSON COUNTY, TEXAS