



**AFTER RECORDING RETURN TO:**



**ROBERT D. BURTON, ESQ.  
ARMBRUST & BROWN, L.L.P.  
100 CONGRESS AVE., SUITE 1300  
AUSTIN, TEXAS 78701**

**FIRST AMENDMENT TO MASTER DECLARATION OF  
RESIDENTIAL COVENANTS,  
CONDITIONS AND RESTRICTIONS  
CEDAR PARK TOWN CENTER**

Cross Reference to Master Declaration of Residential Covenants, Conditions and Restrictions for Cedar Park Town Center, recorded under Document No. 2004063062, Official Public Records of Williamson County, Texas.

**FIRST AMENDMENT TO MASTER DECLARATION  
OF RESIDENTIAL COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
CEDAR PARK TOWN CENTER**

THE STATE OF TEXAS

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§  
§

COUNTY OF WILLIAMSON

This First Amendment to Master Declaration of Residential Covenants, Conditions and Restrictions for Cedar Park Town Center (the "Amendment") is made by **CONTINENTAL HOMES OF TEXAS, L.P.**, a Texas limited partnership ("Declarant"), and is as follows:

**RECITALS:**

A. Declarant previously executed and recorded that certain Master Declaration of Residential Covenants, Conditions and Restrictions For Cedar Park Town Center, recorded as Document No. 2004063062, in the Official Public Records of Williamson County, Texas (the "Declaration").

B. Pursuant to Section 9.02, the Declaration may amended by recording in the Official Public Records of Williamson County, Texas an instrument setting forth the amendment executed and acknowledged by the President and Secretary of CPTC Residential Owners Association, Inc., a Texas nonprofit corporation (the "Association"), certifying that such amendment was approved by Owners entitled to cast at least ninety percent (90%) of the number of votes entitled to be cast pursuant to Section 2.03 of the Declaration.

C. Declarant holds at least ninety percent (90%) of the number of votes entitled to be cast pursuant to Section 2.03 of the Declaration and desires to amend the Declaration as set forth in this Amendment.

D. The President and Secretary of the Association have executed this Amendment for the purpose of certifying that this Amendment was approved by at least ninety percent (90%) of the number of votes entitled to be cast pursuant to Section 2.03 of the Declaration.

**NOW THEREFORE**, Declarant hereby amends and modifies the Declaration as follows:

1. **Amendment of Section 2.03.** Section 2.03 of the Declaration is hereby deleted in its entirety and the following is substituted in its place:

2.03 **Voting Rights.** The right to cast votes and the number of votes which may be cast for election of members to the Board and on all other matters to be voted on by the Members will be calculated as follows:

(a) The Owner of each Lot will have one (1) vote for each Lot so owned. In the event of the re-subdivision of any Lot into two or more Lots: (i) the number of votes to which such Lot is entitled will be increased as necessary to retain the ratio of one (1) vote for each Lot resulting from such re-subdivision, e.g., each Lot resulting from the re-subdivision will be entitled to one (1) vote; and (ii) each Lot resulting from the re-subdivision will be considered an Occupied Lot for purposes of Assessments. In the event of the consolidation of two (2) or more Lots for purposes of construction of a single residence thereon, voting rights and Assessments will continue to be determined according to the number of original Lots contained in such consolidated Lot.

(b) In addition to the votes to which Declarant is entitled by reason of *Section 2.03(a)*, for every one (1) vote outstanding in favor of any other person or entity, Declarant will have four (4) additional votes until the earlier to occur of: (i) one hundred and twenty (120) days after Declarant has conveyed ninety-five percent (95%) of the Lots which may be created out of the Property to owners other than Declarant; or (ii) twenty (20) years after the date this Declaration is recorded in the Official Public Records of Williamson County, Texas.

(d) When more than one person or entity owns a portion of the fee simple interest in any Lot, all such persons or entities will be Members. The vote or votes (or fraction thereof) for such Lot will be exercised by the person so designated in writing to the Secretary of the Association by the Owner of such Lot, and in no event will the vote for such Lot exceed the total votes to which such is otherwise entitled under this *Section 2.03*.

(e) The right of any Owner to vote may be suspended by the Association, acting through the Board, for any period during which any Assessment against such owners Lot(s) remain past due and for any period during which such Owner or such Owners' Lot(s) are in violation of this Declaration.

2. **Amendment of Section 6.03.** The first sentence of Section 6.03 of the Declaration is hereby deleted in its entirety and the following is substituted in its place:

Until January 1, 2005, unless otherwise approved by two thirds (2/3) of the votes of Members who are eligible to vote at a meeting duly called to vote on such matter with at least a quorum of Members who are eligible to vote represented in-person or by proxy, the annual Assessment per Lot shall be a minimum of Three Hundred and 00/100 Dollars (\$300.00).

3. **Amendment of Section 9.02.** Section 9.02 of the Declaration is hereby deleted in its entirety and the following is substituted in its place:

9.02 **Amendment.** This Declaration may be amended or terminated by the recording in the Official Public Records of Williamson County, Texas, of an instrument executed and acknowledged by: (i) Declarant acting alone; or (ii) by the president and secretary of the Association setting forth the amendment and certifying that such amendment has been approved by Declarant (unless Declarant has relinquished such right by written instrument recorded in the Official Public Records of Williamson County, Texas) and Members entitled to cast at least seventy percent (70%) of the number of votes entitled to be cast by members of the Association. No amendment will be effective without the written consent of Declarant, its successors or assigns. Specifically, and not by way of limitation, Declarant may unilaterally amend this Declaration or any Subordinate Declaration or Supplemental Declaration: (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on any Lot; (c) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on Lots; or (d) to comply with any requirements promulgated by a local, state or governmental agency, including, for example, the Department of Housing and Urban Development.

4. **Amendment of Sections 12.07 and 12.08.** Sections 12.07 and 12.08 of the Declaration are hereby deleted in their entirety and the following is substituted in their place:

12.07 **Agreement to Encourage Resolution of Disputes Without Litigation**

(a) Declarant, the Association and its officers, directors, and committee members, all parties subject to this Declaration (collectively, the "Bound Parties"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Property without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in *Section 12.08* in a good faith effort to resolve such Claim.

(b) As used in this Article, the term "Claim" will refer to any claim, grievance or dispute arising out of or relating to:

- (i) the interpretation, application, or enforcement of the Declaration, any Subordinate Declaration or Supplemental Declaration, the rules and regulations adopted by the ADRC, the Articles, Bylaws, and rules and regulations adopted by the Board; or
- (ii) the rights, obligations, and duties of any Bound Party under the Declaration, any Subordinate Declaration or Supplemental Declaration, the rules and regulations adopted by the ADRC, the Articles, Bylaws, and rules and regulations adopted by the Board; or
- (iii) the design or construction of improvements within the Property, other than matters of aesthetic judgment under *Article III*, which will not be subject to review.

The following will not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in *Section 12.08*:

- (i) any suit by the Association to collect assessments or other amounts due from any Owner; and
- (ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of this Declaration; and
- (iii) any suit which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Declaration, any Subordinate Declaration or Supplemental Declaration, the rules and regulations adopted by the ADRC, the Articles, Bylaws, and rules and regulations adopted by the Board; and
- (iv) any suit in which any indispensable party is not a Bound Party; and
- (v) any suit as to which any applicable statute of limitations would expire within one hundred and eighty (180) days of giving the Notice required by *Section 12.08(a)*, unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

#### **12.08 Dispute Resolution Procedures.**

(a) **Notice.** The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") will give written notice to each Respondent and to the Board stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim; and
- (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises); and
- (iii) the Claimant's proposed resolution or remedy; and
- (iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) **Negotiation.** The Claimant and Respondent will make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) **Mediation.** If the parties have not resolved the Claim through negotiation within thirty (30) days of the date of the notice described in *Section 12.08(a)* (or within such other period as the parties may agree upon), the Claimant will have thirty (30) additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in Travis County, Texas.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant will be deemed to have waived the Claim, and the Respondent will be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Parties do not settle the Claim within thirty (30) days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator will issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant will thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Party will bear its own costs of the mediation, including attorney's fees, and each Party will share equally all fees charged by the mediator.

(d) **Settlement.** Any settlement of the Claim through negotiation or mediation will be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award will, upon prevailing, be entitled to recover from the non-complying party (or if more than one noncomplying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

**12.09 Initiation of Litigation by Association.** In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association will not initiate any judicial or administrative proceeding unless first approved by a vote of the Members entitled to cast seventy-five percent (75%) of the votes in the Association, excluding the votes held by the Declarant, except that no such approval will be required for actions or proceedings:

- (a) initiated while Declarant owns any portion of the Property; or

(b) initiated to enforce the provisions of the Declaration, any Subordinate Declaration or Supplemental Declaration, the rules and regulations adopted by the ADRC, the Articles, Bylaws, and rules and regulations adopted by the Board, including collection of assessments and foreclosure of liens; or

(c) initiated to challenge *ad valorem* taxation or condemnation proceedings; or

(d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or

(e) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This Section will not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings except any such amendment will also be approved by the Declarant for so long as Declarant owns any portion of the Property.

**5. Renumbering of Section 12.09.** Section 12.09 of the Declaration is hereby renumbered as Section 12.10.

**6. Miscellaneous.** Any capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Declaration. Unless expressly amended by this Amendment, all other terms and provisions of the Declaration remain in full force and effect as written, and are hereby ratified and confirmed.

Executed on this 3<sup>rd</sup> day of November, 2004.

**CONTINENTAL HOMES OF TEXAS, L.P.**  
a Texas limited partnership

By: CHTEX of Texas, Inc.,  
(a Delaware corporation)  
Its General Partner

By: [Signature]  
Richard N. Maier  
Vice President

EXECUTED FOR THE PURPOSE OF  
CERTIFYING THAT THIS AMENDMENT  
HAS BEEN APPROVED BY A MAJORITY  
OF THE VOTES ENTITLED TO BE CAST  
IN ACCORDANCE WITH SECTION 2.03  
OF THE DECLARATION:

**CPTC RESIDENTIAL OWNERS ASSOCIATION, INC.**  
a Texas non-profit corporation

By: *Richard N. Maier*

By: *Peter S. Lynn*

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was executed before me on this 3<sup>rd</sup> day of November, 2004 by Richard N. Maier, Vice-President of CHTEX of Texas, Inc., a Delaware corporation, General Partner of Continental Homes of Texas, L.P., a Texas limited partnership, on behalf of said corporation and limited partnership.



(seal)

*Theresa L. Thomas*  
Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 3<sup>rd</sup> day of November, 2004, by Richard N. Maier, President of the CPTC Residential Owners Association, Inc., a Texas non-profit corporation, on behalf of said corporation.



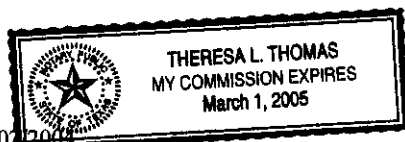
(seal)

*Theresa L. Thomas*  
Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 3<sup>rd</sup> day of November, 2004, by Peter S. Lynn, Secretary of the CPTC Residential Owners Association, Inc., a Texas non-profit corporation, on behalf of said corporation.



(seal)

*Theresa L. Thomas*  
Notary Public, State of Texas

**FILED AND RECORDED**

**OFFICIAL PUBLIC RECORDS 2004091014**

*Nancy E. Rister*

11/23/2004 04:03 PM

DVITEK \$28.00

NANCY E. RISTER, COUNTY CLERK  
WILLIAMSON COUNTY, TEXAS

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**ARMBRUST & BROWN, L.L.P.**  
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