

COURTESY - #109
DP (6)

Doc # 20180032654

AFTER RECORDING RETURN TO:



ROBERT D. BURTON, ESQ.
WINSTEAD PC
401 CONGRESS AVE., SUITE 2100
AUSTIN, TEXAS 78701

HERITAGE FARMS

FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HERITAGE FARMS SUBDIVISION

El Paso County, Texas

Cross reference to that certain Declaration of Covenants, Conditions and Restrictions for Heritage Farms Subdivision, recorded under Document No. 20080070517, Official Public Records of El Paso County, Texas.

4840-4721-0847v.3
61767-2 4/2/2018

HERITAGE FARMS
FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR HERITAGE FARMS SUBDIVISION

This First Amendment to Declaration of Covenants, Conditions and Restrictions for Heritage Farms Subdivision (this "Amendment") is made by **Societa Intelligente, LP**, a Texas limited partnership (the "Declarant"), and is as follows:

RECITALS:

A. Declarant previously executed and recorded that certain Declaration of Covenants, Conditions and Restrictions for Heritage Farms Subdivision, recorded as Document No. 20080070517, Official Public Records of El Paso County, Texas (the "Declaration").

B. Pursuant to *Section 15.15(c)* of the Declaration, the Declaration may be amended by the Declarant, acting alone, until Declarant's Class B Membership terminates.

C. Pursuant to *Section 4.4(b)* of the Declaration, Declarant's Class B Membership terminates the earlier of: (i) when Declarant has sold its entire interest in 100% of the Lots; or (ii) such earlier date as may be established by Declarant in a Supplemental Declaration.

D. Declarant's Class B Membership has not terminated.

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

1. **Recitals.** The foregoing recitals are true and correct, and are incorporated as a part of this Amendment.

2. **Development Period.** A new section, *Section 1.50* is hereby added to the Declaration as follows:

1.50 "Development Period" means the period of time beginning on the date when this Declaration has been Recorded, and ending fifty (50) years thereafter, unless earlier terminated by the Declarant. Declarant may terminate the Development Period by a Recorded written instrument executed by the Declarant. The Development Period is the period of time in which Declarant reserves the right to facilitate the development, construction, and marketing of the Real Property and the Project, or the right to direct the size, shape and composition of the Real Property and the Project. The Development Period is for a term of years and does not require that Declarant own any portion of the Real Property or the Project.

3. **Heritage Farms Restrictions.** A new section, *Section 1.51* is hereby added to the Declaration as follows:

FIRST AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR HERITAGE FARMS SUBDIVISION
Page 2

1.51 "Heritage Farms Restrictions" means, collectively, (i) this Declaration, together with any and all Supplemental Declarations, as the same may be amended from time to time; (ii) the Association Rules; (iii) the Articles and Bylaws from time to time in effect, as the same may be amended from time to time; and (iv) the Architectural Pattern Book.

4. **Maximum Number of Lots.** A new section, *Section 1.52* is hereby added to the Declaration as follows:

1.52 "Maximum Number of Lots" means the maximum number of Lots that may be created and made subject to the terms and provisions of this Declaration. The Maximum Number of Lots for the purpose of this Declaration is eighty three (83). Until expiration or termination of the Development Period, Declarant may unilaterally increase or decrease the Maximum Number of Lots by Recorded written instrument.

5. **Record, Recording, Recordation and Recorded.** A new section, *Section 1.53* is hereby added to the Declaration as follows:

1.53 "Record, Recording, Recordation and Recorded" means recorded in the Official Public Records of El Paso County, Texas.

6. **Governance.** *Section 3.4* of the Declaration is hereby deleted in its entirety and replaced with the following:

3.4 **Governance.** The Board will consist of at least three (3) persons elected at the annual meeting of the Association, or at a special meeting called for such purpose. Notwithstanding the foregoing provision or any provision in the Heritage Farms Restrictions to the contrary, until one hundred and twenty (120) days after seventy-five percent (75%) of the Maximum Number of Lots have been made subject to the terms and provisions of this Declaration and have been conveyed to Owners other than the Declarant or a builder in the business of constructing homes who purchased the Lots from the Declarant for the purpose of selling completed homes built on the Lots, Declarant will appoint and remove all members of the Board and officers of the Association. Within one hundred and twenty (120) days after seventy-five percent (75%) of the Maximum Number of Lots that may be created and made subject to the terms and provisions of this Declaration and have been conveyed to Owners other than the Declarant or a builder in the business of constructing homes who purchased the Lots from the Declarant for the purpose of selling completed homes built on the Lots, the Board will call a meeting of Members of the Association for the purpose of electing one-third of the Board (the "**Initial Member Election Meeting**"), which Board member(s) must be elected by Owners other than the Declarant. Declarant

may appoint and remove two-thirds (2/3) of the Board from and after the Initial Member Election Meeting until expiration or termination of the Development Period. The individuals elected to the Board at the Initial Member Election Meeting shall be elected for a one (1) year term and shall serve until his or her successor is elected or he or she is replaced in accordance with the Bylaws.

7. **Voting Rights.** *Section 4.4* of the Declaration is hereby deleted in its entirety and replaced with the following:

4.4 **Classes of Voting Rights.** The Association has two (2) classes of voting membership:

A. **CLASS A.** Class A Members shall be Owners of Lots, including Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than (1) person holds such interest in any Lot, all such persons collectively shall be a single Member, and the one (1) vote for such Member shall be exercised as the several parties shall determine among themselves, but in no event shall more than one (1) vote be cast with respect to any Lot.

B. **CLASS B.** The Class B Member shall be Declarant, and its successors and assigns, and in addition to the votes to which Declarant is entitled by reason of *Section 4.4A*, Declarant shall be entitled to four (4) votes for each vote outstanding in favor of Class A Members, provided that the Class B membership shall cease and be converted to Class A membership (subject to reversion back to Class B membership upon annexation of additional land) upon the earlier of the following (the "**Conversion Date**"):

(1) Fifty (50) years from the filing date hereof in the Official Public Records of El Paso County, Texas; or

(2) Such earlier date as may be established by Declarant in a Supplemental Declaration to be Recorded by Declarant in its sole and absolute discretion.

The Class B membership shall be immediately reinstated upon annexation of any additional land. Such reinstatement of Class B Members shall in any event cease fifty (50) years from the filing date hereof.

8. **Amendments.** *Section 15.15(a)* of the Declaration is hereby deleted in its entirety and replaced with the following:

FIRST AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR HERITAGE FARMS SUBDIVISION

Page 4

(a) Amendments. This Declaration may be amended or modified (an "Amendment") by: (a) Declarant acting alone; or (b) by the president and secretary of the Association setting forth the Amendment and certifying that such Amendment has been approved by Declarant (until expiration or termination of the Development Period) and, except as otherwise provided in Section 15.15(b), Members entitled to cast at least fifty-one (51%) of the total number of votes of the Association. No Amendment will be effective without the written consent of Declarant during the Development Period.

9. Declarant's Right to Amend. Section 15.5(c) of the Declaration is hereby deleted in its entirety and replaced with the following:

(c) Notwithstanding anything in this Declaration to the contrary, pursuant to Section 15.15(a), this Declaration may be amended or modified by the Recording of an instrument executed and acknowledged by the Declarant.

10. 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.

[SIGNATURE PAGE FOLLOWS]

EXECUTED to be effective on the date this instrument is Recorded.

DECLARANT:

SOCIETA INTELLIGENTE, LP,
a Texas limited partnership

By: SOCIETA INTELLIGENTE, LLC,
a Texas limited liability company,
its General Partner

By: [Signature]
Name: Richard Aquilar
Title: Manager

THE STATE OF TEXAS §
 §
COUNTY OF EL Paso §

This instrument was acknowledged before me on this 23rd day of April, 2018, by Richard Aquilar, Manager of SOCIETA INTELLIGENTE, LLC, a Texas limited liability company, General Partner of SOCIETA INTELLIGENTE, LP, a Texas limited partnership, on behalf of said company and partnership.

(seal) 

[Signature]
Notary Public, State of Texas

Doc # 20180032654
#Pages 6 #NFPages 1
4/25/2018 3:14 PM
Filed & Recorded in
Official Records of
El Paso County
Delia Briones
County Clerk
Fees \$46.00

eRecorded

I hereby certify that this instrument was filed on the date and time stamped
hereon by me and was duly recorded by document number in the Official
Public Records of Real Property in El Paso County.



EL PASO COUNTY, TEXAS

Delia Briones