

45

**DECLARATION
OF COVENANTS, RESTRICTIONS AND EASEMENTS
FOR WHITESTONE RANCH, PHASE 3**

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR WHITESTONE RANCH, PHASE 3 (the "Declaration") is made effective as of the 28th day of December, 2005, by GBR REALTY, LTD., a Texas limited partnership (hereinafter referred to as "Declarant").

BACKGROUND STATEMENT

Declarant is the owner of certain real property in Tarrant County, Texas, being known as WHITESTONE RANCH, PHASE 3, as recorded in Cabinet A, Slide 10757, Deed Records, Tarrant County, Texas.

Declarant intends to develop on lands, including, but not limited to, the real property described above, a development to be known as WHITESTONE RANCH, PHASE 3 (hereinafter referred to as the "Development"). Declarant intends by this Declaration to impose mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of residential property within the Development by the recording of this Declaration and amendments thereto. Declarant desires to provide a flexible and reasonable procedure for the overall development of the Development. Declarant also desires to establish a method for the administration, maintenance, preservation, uses and enjoyment of the property that is now or hereafter subjected to this Declaration and certain other properties described in this Declaration.

Declarant has caused the Association to be formed as a Texas non-profit corporation to perform certain functions for the common good and general welfare of the Owners (as hereinafter defined).

Declarant hereby declares that all of the real property described above shall be held, sold and conveyed subject to this Declaration, which is for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property (as hereinafter defined). The Covenants, Restrictions and Easements set forth herein shall run with the Property, and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, and shall, subject to the limitations herein provided, inure to the benefit of each Owner, his heirs, grantees, distributees, legal representatives, successors, and assigns, and to the benefit of the Association.

ARTICLE I
DEFINITIONS

The following words, when used in this Declaration, shall have the following meanings:

1.01 Association. "Association" means Whitestone Ranch Homeowners Association, Inc., a Texas non-profit corporation organized under the Texas Non-Profit Corporation Act, its successors and assigns. This Homeowners Association is intended to encompass all three phases of Whitestone Ranch.

1.02 Board. "Board" means the Board of Directors of the Association.

1.03 Bylaws. "Bylaws" means the Bylaws of the Association.

1.04 Commencement Date. "Commencement Date" means the date on which the first Residence (as hereinafter defined) is sold to a third party other than Declarant or the builder of such Residence.

1.05 Common Property. "Common Property" means all real property (together with any and all improvements now or hereafter located thereon) owned by the Association or in certain instances over which the Association has been granted permanent easements, for the common use and enjoyment of the Owners, as set out in Article II herein.

1.06 Declarant. "Declarant" means GBR REALTY, LTD., a Texas limited partnership qualified to do business in the State of Texas, and its successors and assigns, provided any such successors or assigns shall acquire for the purpose of development or sale all or any portion of the remaining undeveloped or unsold portions of the real property described in Exhibit "A", or the real property which is intended to become part of the Development, and provided further, in the instrument of conveyance to any such successor or assign, such successor or assign is designated as the "Declarant" hereunder by the grantor of such conveyance, which grantor shall be the "Declarant" hereunder at the time of such conveyance; provided, further, upon such designation of successor Declarant, all rights and obligations of the former Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that as to all of the property described in Exhibit "A" attached hereto, and which is now or hereafter subjected to this Declaration, there shall be only one person or legal entity entitled to exercise the rights and powers of the "Declarant" hereunder at any one time.

1.07 Development-Wide Standard. "Development-Wide Standard" shall mean the standard of conduct, maintenance or other activity generally prevailing in the Development. Such standard may be more specifically determined by the Board and by committees required or permitted to be established pursuant to the Declaration and Bylaws. Such determination, however, must be consistent with the Development-Wide Standard originally established by the Declarant.

1.08 Lot. "Lot" means any parcel of land shown upon a subdivision plat recorded in the Plat Records of Tarrant County, Texas, covering any portion of the Property; provided, however, that no portion of the Common Property shall ever be a Lot except as provided in Section 2.05.

1.09 Member. "Member" means any member of the Association. Every lot owner within the Development shall be a member of the Association.

1.10 Membership. "Membership" means the collective total of all Members of the Association.

1.11 Occupant. "Occupant" shall mean any person occupying all or any portion of a Residence located within the Development for any period of time, regardless of whether such Person is a tenant, guest, or the Owner of the Residence.

1.12 Owner. "Owner" means the record owner (including Declarant), whether one or more persons or entities, of fee simple title to any Lot; provided, however, that where fee simple title has been transferred and is being held merely as security for the repayment of a loan, the person or entity who would own the Lot in fee simple if such loan were paid in full shall be considered the Owner.

1.13 Parcel. "Parcel" shall mean and refer to separately designated residential areas comprised of various types of housing initially or by annexation made subject to this Declaration. For example, and by way of illustration and not limitation, a condominium development, a townhouse development, an apartment complex, and a single family detached home subdivision may all be designated as separate Parcels. If separate Parcel status is desired for a given residential area, the Declarant shall designate such area as a Parcel in an amendment to this Declaration. In the absence of specific designation of separate Parcel status, all property made subject to this Declaration shall be considered a part of the same Parcel. The Board may also grant Parcel status to any area if so requested in writing by the Owners holding at least seventy-five percent (75%) of the total votes entitled to vote thereon in such area.

1.14 Perimeter Wall. "Perimeter Wall" shall mean a screening wall approximately six feet high, with brick columns and masonry panels, constructed by Declarant and/or the Association along and immediately south of the northerly (rear) lot lines of the following lots, and lying within the boundaries of such lots: Lot 77, Block 2, and Lots 2-17, Block 8 of the Development. The Perimeter Wall is straight except for angles in parts of the wall located on Lot 77, Block 2, and Lot 17, Block 8 of the Development, to create visibility triangles.

1.15 Perimeter Wall Landscaping. "Perimeter Wall Landscaping" shall mean any grass, trees, shrubbery, groundcover or other plantings, and any sprinkler system or systems, that are installed by Applicant and/or the Association between the Perimeter Wall and the southerly edge of the pavement on Jerry Dunn Parkway.

1.16 Property. "Property" means that certain real property being known as Whitestone Ranch, PHASE 3, together with such additional real property as may be subjected to the provisions of this Declaration in accordance with the provisions of Article X hereof.

1.17 Residence. "Residence" shall mean a Structure situated upon a Lot intended for independent use and occupancy as a residence for a single family. A structure situated on a Lot shall not become a Residence until a certificate of occupancy shall have been issued by the appropriate governmental authorities as a prerequisite to the occupancy of such Residence and until the Lot and structure located thereon shall have been conveyed to a third party other than the builder thereof unless the builder intends to use the structure as his or her primary residence. The Owner of a Residence shall notify the Association or its designee immediately upon issuance of a certificate of occupancy for the Residence.

1.18 Restrictions. "Restrictions" means all covenants, restrictions, easements, charges, liens and other obligations created or imposed by this Declaration.

1.19 Structure. "Structure" means:

(a) any thing or object the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, dock, fence, curbing, paving, wall, tree, shrub (and all other forms of landscaping), sign, signboard, temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot;

(b) any excavation, grading, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and

(c) any change in the grade at any point on a Lot of more than six (6) inches, whether or not subsection (b) of this Section 1.17 applies to such change.

ARTICLE II COMMON PROPERTY

2.01 Conveyance of Common Property.

(a) The Declarant may from time to time convey to the Association or grant easements to the Association, at no expense to the Association and in accordance with this Section, real and personal property for the common use and enjoyment of the Owners of Residence (such real and personal property is hereinafter collectively referred to as "Common Property") and, to the extent set forth in this Declaration, the general public. The Association hereby covenants and agrees to accept from the Declarant all such conveyances of Common Property.

(b) It is contemplated by the Declarant that the Declarant will convey to the Association Common Property for access, ingress and egress of both vehicular traffic and pedestrians, as well as for landscaping and security purposes. The Declarant may, at Declarant's sole discretion, modify, alter, increase, reduce and otherwise change the Common Property (or the use to be made thereof) contemplated to be conveyed to the Association in accordance with this subsection (b) of this Section 2.01 at any time prior to conveyance of such Common Property to the Association.

(c) In addition to the property described in subsection (b) of this Section 2.01, the Declarant may convey to the Association in accordance with this Section 2.01 such other real and personal property as the Declarant may determine to be necessary or proper for the completion of the Development.

(d) Notwithstanding any legal presumption to the contrary, the fee title to, and all rights in any portion of the Property owned by the Declarant and designated as Common Property or designated for public use shall be reserved to the Declarant

until such time as the same shall be conveyed to the Association or to any municipality or other governmental body, agency or authority.

(e) "Common Property" shall also include all real and personal property acquired by the Association for the common use and enjoyment of the Owners, and to the extent set forth in this Declaration, the general public.

2.02 Right of Enjoyment. Every Owner of a Residence shall have a right and easement to use the Common Property, which right shall be appurtenant to and shall pass with the title to every Lot upon transfer; provided, however, that no Owner shall do any act which interferes with the free use and enjoyment of the Common Property by all other Owners. The Association may permit persons who are not Owners of Residences to use part of all of the Common Property subject to such limitations, and upon such terms and conditions, as it may from time to time establish. The right and easement of enjoyment granted or permitted by this Section 2.02 is subject to suspension by the Association as provided in Sections 2.03(e) and 3.05.

2.03 Rights of The Association. The rights and privileges conferred in Section 2.02 hereof shall be subject to the right, and where applicable, the obligation, of the Association acting through the Board to:

(a) promulgate rules and regulations relating to the use, operation and maintenance of the Common Property;

(b) borrow money for the purpose of carrying out the activities of the Association, including the acquisition, construction, improvements, equipping and maintenance of Common Property, and in aid thereof to encumber by deed of trust, mortgage or other security interest any or all of the Association's property including Common Property and revenues from assessments, user fees and other sources; and provided, however, that, during the period when the Declarant has the right to appoint members of the Board, the Association shall not grant or convey to anyone any mortgage, deed of trust or other security interest on or in Common Property constituting real estate without approval by Declarant and a two-thirds (2/3rds) vote of the Members who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the Bylaws of the Association;

(c) grant easements or rights of way over Common Property to any municipality or other governmental body, agency or authority, to any quasi-public agency or to any utility company or cable television system;

(d) dedicate or transfer all or any part of the Common Property or interests therein to any municipality or other governmental body, agency or authority for such purposes and subject to such provisions and conditions as may be agreed upon by the Association and such grantee, including a provision that such property or interest shall, if such dedication or transfer is approved by a two-thirds (2/3rds) vote of the Members who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the Bylaws of the Association, cease to be subject to

this Declaration or all or any part of the Restrictions while held by any such municipality or other governmental body, agency or authority.

(e) suspend, pursuant to Section 3.05, the voting rights of any Member and the right of enjoyment granted or permitted by Section 2.02;

(f) sell, lease or otherwise convey all or any part of its properties and interests therein;

(g) enforce all applicable provisions of valid agreements of the Association relating to the Common Property or any part thereof;

(h) maintain any and all landscaping treatments previously installed by the Declarant, to the extent that such landscaping is not otherwise maintained by the appropriate county and/or municipal entity having jurisdiction over the roads for Tarrant County, Texas;

(i) maintain and keep in good repair the Perimeter Wall and the Perimeter Wall Landscaping which the Declarant hereby designates as a maintenance obligation of the Association.

(j) contract on behalf of all Lots for garbage and rubbish pickup, and to charge the Owner of each Lot for his prorata share of the cost thereof, such prorata share to be determined by dividing the number of Lots being served into the total cost of providing such garbage and rubbish pickup. If the Association so elects, the charge to each Owner for garbage and rubbish pickup shall be in addition to the Assessments described in Article IV hereof; and

(k) contract on behalf of all Lots for security and/or emergency medical ambulance services, and to charge the Owner of each Lot for his prorata share of the cost thereof, such prorata share to be determined by dividing the number of Lots being served into the total cost of providing such security and/or emergency medical ambulance service. If the Association so elects, the charge to each Owner for security and/or emergency medical ambulance service shall be in addition to the Assessments described in Article IV hereof.

2.04 Conveyance of Common Property by Declarant to Association. The Declarant may transfer or convey to the Association any personal property and any improved or unimproved property, leasehold, easement or other property interest which is or may be subjected to the terms of this Declaration. Such conveyance shall be accepted by the Association, and the property shall thereafter be Common Property to be maintained by the Association for the benefit of all of its Members.

2.05 Types of Common Property. At the time of the conveyance of any real property or grant of easement by the Declarant to the Association to be used as Common Property, the Declarant shall designate in the deed of conveyance of easement that such real property is to be Common Property, and further may designate in the deed of conveyance or easement the specific or general

purpose or purposes for which such real property or any portion thereof may be used and in such event, such real property or portion thereof shall not, without a two-thirds (2/3rds) vote of the Members, be used for any different purpose or purposes without the prior written consent of the Declarant.

2.06 Delegation of Use. Any Owner may delegate to the members of his family or his tenants who reside on a Lot, in accordance with the Bylaws, his right to use and enjoy the Common Property.

2.07 Maintenance and Other Common Expenses:

(a) The Association shall maintain and keep in good repair the Common Property including, without limitation, all landscaping and improvements situated on the Common Property. In addition to the maintenance of the Common Property, the Association shall have the obligation to maintain, repair, and replace all grass, trees, shrubbery or other plantings, sidewalks, fences, walls, street lights, benches, trash receptacles, sprinkler systems, informational and directional street signage installed by Declarant, security gates, and any other property Declarant or the City of Benbrook designates as a maintenance obligation of the Association by an amendment to this Declaration.

(b) The Association shall maintain and keep in good repair the Perimeter Wall and the Perimeter Wall Landscaping. The Association shall maintain and replace all grass, trees, shrubbery, ground cover or other plantings, and repair and replace any sprinkling system or systems, that are part of the Perimeter Wall Landscaping. The Association shall pay all utility charges incurred because of the sprinkling system or systems that are part of the Perimeter Wall Landscaping.

(c) The Common Property is private, and is owned and maintained by the Association. The City of Benbrook has no obligation to maintain or reconstruct the Common Property; however, the City of Benbrook may assume the duty of performing the maintenance of the Common Property, the Perimeter Wall and the Perimeter Wall Landscaping if the Association dissolves or in any way fails or refuses to perform its obligations. The City of Benbrook may use the outstanding balance of the Common Property Maintenance Reserve Fund for maintenance of the Common Property, the Perimeter Wall and the Perimeter Wall Landscaping or to make the Common Property suitable for public use. In the event the outstanding balance of the Common Proper Maintenance Reserve Fund is insufficient to cover this cost, the City of Benbrook may levy an assessment upon each Lot on a pro rata basis for the cost of performing the maintenance obligations.

(d) The Association shall be responsible for contacting the City of Benbrook Inspection Department every two (2) years, or as needed, from time of construction to schedule an inspection by city staff and/or their designee of the Common Property, the Perimeter Wall and the Perimeter Wall Landscaping.

ARTICLE III
WHITESTONE RANCH HOMEOWNERS ASSOCIATION

3.01 Purposes, Powers and Duties of The Association. The Association shall be formed as a non-profit corporation for the sole purpose of performing certain functions for the common good and general welfare of the residents of the Development. The Association shall have no power or duty to do or perform any act or thing other than those acts and things which will promote in some way the common good and general welfare of the Members. To the extent, and only to the extent, necessary to carry out such purpose, the Association (a) shall have all of the powers of a Texas non-profit corporation organized under the Texas Non-Profit Corporation Act, and (b) shall have the power and duty to exercise all of the rights, powers and privileges and to perform all of the duties and obligations of the Association as set forth in this Declaration.

3.02 Membership in the Association. Every Owner shall automatically be a member of the Association and such membership shall terminate only as provided in this Declaration. For purposes of voting, there shall be two (2) classes of Members as set forth in Section 3.03.

3.03 Voting Rights.

(a) Each Owner of a Residence, with the exception of Declarant, shall be a Class A Member and shall be entitled to one (1) Class A vote per Residence. Where such Owner is a group or entity other than one individual person, the vote on behalf of such Owner shall be exercised only by such individual person as shall be designated in a proxy instrument duly executed by or on behalf of such group or entity and delivered to the secretary of the Association.

(b) The Declarant shall be the sole Class B Member and shall be entitled to nine (9) votes for each Lot or Residence owned; provided, however, in no event shall the Class B Member have less than the total number of Class A votes plus one (1). The Class B Membership shall cease and be converted to Class A Membership at such time as Declarant no longer retains the right to appoint and remove members of the Board and officers of the Association pursuant to Section 3.08 below.

(c) The Development will be composed of Lots to be developed in phases containing unequal numbers of Lots. Each such phase will be platted of record in the Office of the Clerk of Tarrant County, Texas, in accordance with Article X of this Declaration. The Declarant shall notify the Association in writing when the final phase of the Development has been so platted of record. By acceptance of a deed conveying a Lot, each Owner acknowledges that, upon the filing by Declarant of the subdivision plats covering such phases, the total votes outstanding in the Association will automatically increase based upon the number of Lots in the phases added and in accordance with the formula set forth in subsection (b) of this Section 3.03 and in no event shall Class B Membership cease and be converted to Class A Membership [as provided in subsection (b) of this Section 3.03] until after the Association receives the written notice provided for in the preceding sentence; provided, however, nothing contained herein shall obligate the Declarant to develop any

proposed phase of the Development unless such phase is subjected to this Declaration.

3.04 Board of Directors. The affairs of the Association shall be managed by a Board of Directors. The number of Directors and the method of election of Directors shall be as set forth in the Bylaws of the Association.

3.05 Suspension of Membership Rights. The Board may suspend the voting rights of any Member and the right of enjoyment of the Common Property of any person who:

(a) shall be subject to the Right of Abatement, as defined in Section 8.02, by reason of having failed to take the reasonable steps to remedy a violation or breach of either the Restrictions or the Design Standards (as hereinafter defined) of the ACC (as hereinafter defined) within thirty (30) days after having received notice of the same pursuant to the provisions of Section 5.11, 6.16 or 8.02 hereof;

(b) shall be delinquent in the payment of any assessment levied by the Association pursuant to the provisions of Article IV hereof; or

(c) shall be in violation of the rules and regulations of the Association relating to the use, operation and maintenance of Common Property.

Such suspension shall be for the balance of the period in which said Member or person shall remain in violation, breach or default, as aforesaid, except that in the case of a violation described in subsection (c) of this Section 3.05, the suspension may be for a period not to exceed 60 days after the cure or termination of such violation. No such suspension shall prevent an Owner's ingress to or egress from his Lot.

3.06 Termination of Membership. Membership shall cease only when a person ceases to be an Owner.

3.07 Voting Procedures. The procedures for the election of Directors of the Association and the resolution of such other issues as may be brought before the membership of the Association shall be governed by this Declaration, the Texas Non-Profit Corporation Act, the Articles of Incorporation of the Association, and the Bylaws of the Association, as each shall from time to time be in force and effect.

3.08 Control by Declarant.

(a) Notwithstanding any other language or provision to the contrary in this Declaration, in the Articles of Incorporation, or in the Bylaws of the Association, Declarant hereby retains the right to appoint and remove any member of the Board of the Association and any officer or officers of the Association until 15 days after the first of the following events shall occur: (i) the expiration of twenty (20) years after the date of the recording of this Declaration, (ii) the date upon which all of the Lots intended by Declarant to be a part of the Development have been conveyed by Declarant to Owners other than a person or persons constituting Declarant; or (iii) the

surrender by Declarant of the authority to appoint and remove directors and officers by an express amendment to this Declaration executed and recorded by Declarant; provided, however, that the Owners shall be entitled to elect certain members of the Board of the Association in accordance with the terms of the Bylaws of the Association which shall not be removable by the Declarant acting alone.

(b) Upon the expiration of the period of Declarant's right to appoint and remove directors and officers of the Association pursuant to the provisions of this Section, such right shall automatically pass to the Owners, including Declarant if Declarant then owns one or more Lots, and a special meeting of the Association shall be called at such time. At such special meeting the Owners shall elect a new Board of Directors which shall undertake the responsibilities of the Board, and Declarant shall deliver the books, accounts, and records, if any, which Declarant has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period which Declarant has in its possession. Each Owner, by acceptance of a deed to or other conveyance of a Lot vests in Declarant such authority to appoint and remove directors and officers of the Association as provided in this Section. The Association may exercise any other right or privilege given to it expressly by this Declaration or by law and any other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

ARTICLE IV ASSESSMENTS

4.01 Covenant for Assessments and Creation of Lien and Personal Obligation. Each Owner of a Residence, jointly and severally, for himself, his heirs, distributees, legal representatives, successors and assigns, by acceptance of a deed for a Residence, whether or not the covenants contained herein shall be expressed in any such deed, hereby covenants and agrees as follows:

(a) to timely pay to the Association the annual assessments which may or shall be levied by the Association pursuant to this Declaration against all Residences owned by him;

(b) to timely pay to the Association any special assessments for capital improvements and other charges which may or shall be levied by the Association pursuant to this Declaration against all Residences owned by him;

(c) that there is hereby created a continuing charge and lien upon all Residences owned by him against which all such assessments are made to secure payment of such assessments and any interest thereon as provided in Section 4.09 hereof and costs of collection including reasonable attorneys' fees;

(d) that such continuing charge and lien on such Residence binds such Residence in the hands of the then Owner, and the Owner's heirs, devisees, legal representatives, successors and assigns. Such charge and lien is superior to any and

all charges, liens or encumbrances which may hereafter in any manner arise or be imposed upon such Lots whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, deed of trust or other instrument, except (i) such liens for taxes or other public charges as are by applicable law made superior, and (ii) all deeds to secure debt given to secure a loan the proceeds of which are used (1) to purchase a Residence or Residences (together with any and all Structures which may from time to time be placed or located thereon), and (2) to finance the construction repair or alteration of Structures. A person or entity acquiring a lien or encumbrance on a Residence after this Declaration is recorded shall acknowledge, by the act of filing an instrument creating such lien, that such lien or encumbrance is inferior to the continuing lien for the charge and lien provided for herein, whether or not such acknowledgment is specifically stated in the instrument creating the lien or encumbrance, except as provided by Subsections (i) and (ii) above;

(e) that no sale or transfer at foreclosure or in lieu of foreclosure shall relieve any Residence from liability for any assessment thereafter assessed;

(f) that all annual, special and specific assessments (together with interest thereon as provided in Section 4.09 of this Declaration and costs of collection including reasonable attorneys' fees) levied against any Residence owned by him during the period that he is an Owner shall be [in addition to being a continuing charge and lien against such Residence as provided in Section 4.01(c) of this Declaration] a personal obligation which will survive any sale or transfer of the Residence owned by him, provided, however, that such personal obligation for delinquent assessments shall not pass to an Owner's successor in title unless expressly assumed by such successor, and

(g) failure to pay any assessment when due shall constitute a default of the Owner's obligations hereunder, and shall entitle the Association to exercise the remedies provided under the terms of this Declaration.

4.02 Purpose of Assessment. The assessments levied by the Association shall be used exclusively for the purpose of providing for the common good and general welfare of the Residents of the Development, including, but not limited to, security, the acquisition, construction, improvement, maintenance, insuring, and equipping of Common Property, maintenance of private driveways or other improvements or landscaping which are designated by Declarant to be maintenance obligations of the Association, the enforcement of the Restrictions contained in this Declaration, the enforcement of the Design Standards of the ACC, the payment of operating costs and expenses of the Association including, without limitation, any ad valorem real and personal property taxes on any real and personal property owned by the Association, and the payment of all principal and interest when due on all debts owed by the Association.

4.03 Accumulation of Funds Permitted. The Association shall not be obligated to spend in any calendar year all the sums collected in such year by way of annual assessments or otherwise, and may carry forward, as surplus, any balances remaining, nor shall the Association be obligated to apply such surplus to the reduction of the amount of the Annual Assessments in any succeeding

year, but may carry forward from year to year such surplus as the Board may deem to be desirable for the greater financial security of the Association and the effectuation of its purposes.

4.04 Annual Assessment.

(a) Beginning on the Commencement Date and continuing thereafter until January 1 of the year immediately following the Commencement Date, each Lot shall be subject to an Annual Assessment of Two Hundred and No/100 Dollars (\$200.00) per Residence, provided, however, in the event that the Commencement Date falls on a day other than January 1, the Annual Assessment for such year shall be prorated so that each Owner pays an Annual Assessment proportional to the number of days remaining in the calendar year. The Annual Assessment may include the Reserve Fund fee as provided in Section 4.05. The words "Assessment Year" as used herein shall mean the calendar year, with the first Assessment Year commencing on January 1 of the year immediately following the Commencement Date. For so long as Declarant has the right to appoint and remove Directors and Officers of the Association, the Annual Assessment shall not be reduced below \$200.00 without the express written consent of Declarant.

(b) Commencing with the first Assessment Year and continuing thereafter, the annual assessment may be increased at any time and from time to time during each Assessment Year by Declarant, provided, however, such increase shall not be more than twenty percent (20%) above the Annual Assessment for the previous Assessment Year without a vote of the Membership.

(c) Commencing with the first Assessment Year and continuing thereafter, the Annual Assessment for each Assessment Year may at any time and from time to time be increased more than twenty percent (20%) above the maximum annual Assessment for the previous Assessment Year if such increase is approved by a two-thirds (2/3) vote of the Members of the Association who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the provisions of the Bylaws of the Association and this Declaration.

4.05 Common Property Maintenance Reserve Fund.

(a) The Association shall establish a Common Property Maintenance Reserve Fund (the "Reserve Fund") for the maintenance, repair and reconstruction of the Common Property, the Perimeter Wall and the Perimeter Wall Landscaping. The Reserve Fund shall not be co-mingled with any other Association fund. The Reserve Fund fee may be a part of the Annual Assessment, subject to the limitations established in this Section.

(b) Every Owner shall be assessed an annual Reserve Fund fee by the Association. The annual aggregate Reserve Fund fee due for the Association shall not be less than \$1.00 for each front foot for all Lots in the Development. The annual Reserve Fund fee shall be deposited into the Reserve Fund. On the fifth anniversary of its creation and on each anniversary thereafter, the accumulated balance of the

Reserve Fund shall not be less than \$5.00 per front foot for all Lots in the Development.

(c) The formula for calculating the annual Reserve Fund fee may be reviewed and amended by the Association as needed, upon approval by the City of Benbrook. Upon request, the Association shall provide the City of Benbrook an audited statement of the Reserve Fund's balance.

(d) If the Association desires, it may maintain an insurance policy in effect for the specific purpose of any required repair, maintenance or reconstruction of the Common Property, the Perimeter Wall and the Perimeter Wall Landscaping; and such insurance shall be in a form acceptable to the City of Benbrook. The premiums for such insurance policy will be paid directly from the funds collected in the annual assessment by the Association. Maintaining such an insurance policy shall not, however, release the Association from its obligation to maintain and keep in good repair the Common Property, the Perimeter Wall and the Perimeter Wall Landscaping in the manner herein provided.

4.06 Special and Parcel Assessments.

(a) In addition to the Annual Assessments authorized by this Article IV, the Association may levy, in any Assessment Year and with such frequency as the Association shall deem necessary, Special Assessments for the purpose of paying, in whole or in part, any unanticipated operating expenses, as well as the cost of any construction, reconstruction, repair or replacement of a capital improvement on the Common Property or on any private drives designated by Declarant to be a maintenance obligation of the Association. Such Special Assessments may be levied by the Board in any Assessment Year without the approval of the Members, which special assessments in the aggregate do not exceed an amount equal to the Annual Assessment then in effect. Special Assessments exceeding said amount shall require the approval of two-thirds (2/3) of the Members who are present in person or by proxy at a meeting of Members duly held in accordance with the provisions of the Bylaws of the Association and this Declaration.

(b) The Association shall also be authorized to levy, in any Assessment Year and with such frequency as the Association shall deem necessary, Parcel Assessments for the purpose of paying, in whole or in part, the cost of estimated expenses for the sole benefit of a particular Parcel, which Parcel Assessments shall be allocated equally among the Residences in a Parcel.

4.07 Assessment Procedure.

(a) The Board shall establish the Annual Assessment for each Assessment Year at an amount not in excess of the maximum Annual Assessment as determined by the provisions of this Article IV and shall also establish the date during the Assessment Year on which the Annual Assessment shall be due and payable (such date is hereinafter referred to as the "Due Date"). The Board shall also establish an

annual budget which shall list the estimated operating expenses and shall contain an amount to be set aside each year into a Reserve Allowance to be used for future repair and replacement of the Common Property; provided, however, in no event shall the Board be required to provide for a reserve sufficient to cover all such future repair and replacement of the Common Property, it being intended that a portion of such costs will be covered by Special Assessments. The Reserve Allowance shall not be co-mingled with the Reserve Fund established in Section 4.05. The Board shall cause the Association to send to each Owner at least thirty (30) days in advance of the Due Date written notice setting forth the amount of the annual assessment and the Due Date. The annual assessment shall become due on the thirtieth (30th) day following such written notice or the Due Date, whichever is later. The Board may establish reasonable payment procedures to allow or require payment of the annual assessment in installments during the Assessment Year. The Board shall also establish payment procedures for payment of any special assessments for capital improvements which may be levied in accordance with the provisions of this Article IV.

(b) All Members of the Association shall be given written notice by the Board not less than thirty (30) nor more than sixty (60) days in advance of any meeting of the Members of the Association at which the Board shall propose taking action pursuant to Section 4.04(c) and Section 4.05 of this Article IV. Such written notice shall specify under which Section or Sections the Board will propose action. At such meeting, the presence of Members or of parties entitled to cast fifty percent (50%) of the total votes outstanding shall constitute a quorum. If the required quorum is not present at such meeting, a second meeting may be called by the Board subject to the same notice requirement, and the required quorum at such second meeting shall be thirty percent (30%) of the total votes outstanding. No such second meeting shall be held more than sixty (60) days following the first meeting. If the required quorum is not present at the second meeting, the Board may take such action without approval of the Members.

4.08 Uniform Rate of Assessment. Both Annual and Special Assessments must be fixed at a uniform rate for all Residences.

4.09 Contribution by Declarant. For so long as Declarant has the authority to appoint and remove Directors and Officers of the Association, Declarant shall not be liable for this payment of any assessments, provided, however, during said period Declarant shall advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for the reserve allowance), and the sum of Annual, Special and Specific Assessments collected by the Association in any Assessment Year, and such advances shall be evidenced by promissory notes from the Association to Declarant.

4.10 Effect of Non-payment of Assessments. Any Assessment which is not paid on or before the Due Date shall bear interest after the Due Date at the lower of (i) the highest legal rate of interest which can be charged, or (ii) the rate of eighteen percent (18%) per annum, or (iii) at such rate as the Board may from time to time establish; provided, however, that in no event shall the Board have the power to establish a rate of interest in violation of the laws of the State of Texas. In

the event of default in the payment of any one or more installments of an Assessment, the Board may declare any remaining balance of the Assessment at once due and payable. In the event that an Owner shall fail to pay fully any portion of any Assessment prior to the date on which payment is due, such unpaid portion (including any remaining balance declared immediately due and payable in accordance with the preceding sentence), together with interest and costs of collection including reasonable attorneys' fees shall be a binding personal obligation of such Owner, as well as a lien on such Owner's Residence enforceable in accordance with the provisions of this Declaration.

4.11 Certificate of Payment. Upon written demand by an Owner, the Association shall within a reasonable period of time issue and furnish to such Owner a written certificate stating that all Assessments (including penalties, interest and costs, if any) have been paid with respect to any Lot owned by said Owner as of the date of such certificate, or that all Assessments, interest and costs have not been paid, setting forth the amount then due and payable. The Association may make a reasonable charge for the issuance of such certificate. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and any bona fide purchaser of, or lender on, the Lot in question.

4.12 Approval by Declarant. Notwithstanding anything to the contrary contained herein, no Special Assessment shall be made without the approval of Declarant for so long as Declarant has the right to appoint officers and directors of the Association.

4.13 Specific Assessments. The Board shall have the power to specifically assess any Owner pursuant to this Section as in its discretion it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. The Board may specifically assess Owners for the following expenses, except for expenses incurred for maintenance and repair of items which are the maintenance responsibility of the Association as provided herein:

(a) Expenses of the Association which benefit less than all of the Residences, which may be specifically assessed equitably among all of the Residences which are benefitted according to the benefit received;

(b) Expenses incurred by the Association pursuant to Section 6.16 hereof, and

(c) Reasonable fines as may be imposed in accordance with the terms of this Declaration and the Bylaws.

ARTICLE VI ARCHITECTURAL CONTROL

5.01 Architectural Control Committee - Creation and Composition.

(a) An Architectural Control Committee (the "ACC") shall be established consisting of not less than three (3) nor more than five (5) individuals, provided,

however, that the ACC shall always have an uneven number of members. Notwithstanding anything to the contrary contained herein, Declarant shall have the right, but not the obligation, to appoint all members of the ACC until the plans for all of the Residences for all of the Lots in the Development have been approved by the ACC. Thereafter, the Board shall appoint the members of the ACC. All costs of operating the ACC may, at the discretion of Declarant, be borne by the Association.

(b) Each initial member of the ACC shall be appointed for a term of one (1) year. Thereafter each member of the ACC shall be appointed for a calendar-year term. If any vacancy shall occur in the membership of the ACC by reason of death, incapacity, resignation, removal or otherwise, the remaining members of the ACC shall continue to act and such vacancy shall, subject to the provisions of 5.01(a), be filled by the Declarant (or Board if at the time the Board has the right to appoint members of the ACC) at the earliest possible time. Any ACC member may resign at any time by giving written notice of such resignation to the Chairman of the ACC and such resignation shall take effect on receipt thereof by the Chairman. Any member of the ACC may be removed at any time with or without cause by the Declarant (or Board if at the time the Board has the right to appoint members of the ACC).

5.02 Purpose, Powers and Duties of the ACC. The purpose of the ACC is to assure that any installation, construction or alteration of any Structure on any Lot shall be submitted to the ACC for approval (i) as to whether the proposed installation, construction or alteration is in conformity and harmony of external design and general quality with the existing standards of the Development and the Design Standards, and (ii) as to the location of Structures with respect to topography, finished ground elevation and surrounding Structures. To the extent necessary to carry out such purpose, the ACC shall have all of the powers and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with or incidental to the accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any Structure on any Lot.

5.03 Officers, Subcommittees and Compensation. The members of the ACC shall appoint a Chairman from among their number and may appoint from among their number such other officers and subcommittees of members of the ACC as they shall from time to time determine necessary. The members of the ACC shall be reimbursed by the Association for traveling expenses and other reasonable out-of-pocket costs incurred in the performance of their duties as members of the ACC.

5.04 Operations of the ACC.

(a) Meetings. The ACC shall hold regular meetings at least once every three (3) months or more often as may be established by the ACC. Special meetings may be called by the Chairman and shall be called by the Chairman upon the written request of a majority of the members of the ACC then in office. Regular and special meetings of the ACC shall be held at such time and at such place as the ACC shall specify. Notice of each regular or special meeting of the ACC shall be mailed to each member thereof at his residence or at his usual place of business at least ten (10) days before the day the meeting is to be held. Notice of regular and special meetings

need not specify the purpose or purposes for which the meeting is called. Notice of a meeting need not be given to any member of the ACC who signs a waiver of notice either before or after the meeting. Attendance of a member of the ACC shall constitute a waiver of notice of such meeting, and shall constitute a waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, except when the member states, at the beginning of the meeting, any such objection or objections to the transaction of business. At each meeting of the ACC, the presence of a majority of the members then in office shall constitute a quorum for the transaction of business. Except as otherwise provided herein, the act of a majority of the members of the ACC present at any regular or special meeting thereof at which a quorum is present shall constitute the act of the ACC. In the absence of a quorum, any member of the ACC present at the time and place of the meeting may adjourn the meeting from time to time until a quorum shall be present. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called. The ACC shall maintain both a record of votes and minutes for each of its meetings. The ACC shall make such records and minutes available at reasonable places and times for inspection by Members of the Association and by the Association's Secretary. Any action required to be taken at a meeting of the ACC, or any action which may be taken at a meeting of the ACC, may be taken without a meeting if written consent, setting forth the action so taken, shall be signed by all the members of the ACC and be filed with the minutes of the proceedings of the ACC. Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any document filed by the ACC.

(b) Activities.

(i) The ACC shall adopt and promulgate the Design Standards described in Section 5.05 hereof and shall, as required, make findings, determinations, rulings and orders with respect to the conformity with said Design Standards of plans and specifications submitted for approval to the ACC pursuant to the provisions of this Declaration. The ACC shall, as required, issue permits, authorizations or approvals, which may include specific requirements or conditions, pursuant to the provisions of this Declaration.

(ii) Any two (2) or more members of the ACC may be authorized by the ACC to exercise the full authority of the ACC with respect to all matters over which the ACC has authority as may be specified by resolution of the ACC, except with respect to the adoption or promulgation of the Design Standards. The unanimous action of the two (2) or more members with respect to the matters specified shall be final and binding upon the ACC and upon any applicant for an approval, permit or authorization, subject, however, to review and modification by the ACC on its own motion or appeal by the applicant to the ACC as provided in this paragraph (ii). Written notice of the decision of such two (2) or more members shall, within five (5) working days thereof, be given to any applicant for an approval, permit or authorization.

The applicant may, within ten (10) days after receipt of notice of any decision which he deems to be unsatisfactory, file a written request to have the matter in question reviewed by the ACC. Upon the filing of any such request, the matter with respect to which such request was filed shall be submitted to, and reviewed promptly by, the ACC, but in no event later than thirty (30) days after the filing of such request. The decision of a majority of the members of the ACC with respect to such matter shall be final and binding.

5.05 Design Standards.

(a) The ACC shall from time to time adopt, promulgate, amend, revoke and enforce guidelines (the "Design Standards") for the purposes of:

(i) governing the form and content of plans and specifications to be submitted to the ACC for approval pursuant to the provisions of this Declaration;

(ii) governing the procedure for such submission of plans and specifications;

(iii) establishing guidelines with respect to the approval and disapproval of design features, architectural styles, exterior colors and materials, details of construction, location and size of Structures and all other matters that require approval by the ACC pursuant to this Declaration; and

(iv) assuring the conformity and harmony of external design and general quality of the Development.

(b) The ACC shall make a published copy of its current Design Standards readily available to Members and prospective Members of the Association and to all applicants seeking the ACC's approval.

5.06 Submission of Plans and Specifications. No Structure shall be commenced, erected, placed, moved onto or permitted to remain on any Lot, nor shall any existing Structure upon any Lot be altered in any way which materially changes the exterior appearance of the Structure or Lot, unless plans and specifications therefor shall be in such form and shall contain such information as may be reasonably required by the ACC in the Design Standards, including, without being limited to:

(a) a site plan showing the location of all proposed and existing Structures on the Lot including building setbacks, open space, driveways, walkways and parking spaces, including the number thereof, and all siltation and erosion control measures;

(b) a foundation plan;

(c) a floor plan;

(d) exterior elevations of all proposed Structures and alterations to existing Structures, as such Structures will appear after all back-filling and landscaping are completed;

(e) specifications of materials, color scheme, lighting scheme and other details effecting the exterior appearance of all proposed Structures and alterations to existing Structures; and

(f) plans for landscaping and grading.

5.07 Approval of Plans and Specifications. Upon approval by the ACC of any plans and specifications submitted pursuant to this Declaration, two (2) copies of such plans and specifications, as approved, shall be deposited for permanent record with the ACC and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with any Lot or Structure of any plans and specifications shall not be deemed a waiver of the ACC's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot or Structure. Approval of any such plans and specifications relating to any Lot or Structure, however, shall be final as to that Lot or structure and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval.

5.08 Disapproval of Plans and Specifications. The ACC shall have the right to disapprove any plans and specifications submitted pursuant to this Declaration because of any of the following:

(a) the failure to include information in such plans and specifications as may have been reasonably requested;

(b) the failure of such plans or specifications to comply with this Declaration or the Design Standards; or

(c) any other matter which, in the judgment of the ACC, would be likely to cause the proposed installation, construction or alteration of a Structure (i) to fail to be in conformity and harmony of external design and general quality with the standards for the Development as set forth in the Design Standards or the Development-Wide Standard, or (ii) as to location to be incompatible with topography, finished ground elevation and surrounding Structures. In any case in which the ACC shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the ACC shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal may be prepared and submitted for approval.

5.09 Obligation to Act. The ACC shall take action on any plans and specifications submitted as herein provided within thirty (30) days after receipt thereof. Approval by the ACC, if

granted, together with any conditions imposed by the ACC, shall be placed in writing on the plans and specifications and shall be returned to the applicant. Failure by the ACC to take action within thirty (30) days of receipt of plans and specifications submitted for approval shall be deemed approval of such plans and specifications.

5.10 Inspection Rights. Any employee or agent of the Association or the ACC may, after reasonable notice, at any reasonable times or times, enter upon any Lot and Structure thereon for the purpose of ascertaining whether the installation, construction, alteration or maintenance of any Structure or the use of any Lot or Structure is in compliance with the provisions of this Declaration, and neither the Association, nor the ACC, nor any such agent shall be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection, provided such inspection is carried out in accordance with the terms of this Section.

5.11 Violations. If any Structure shall be erected, placed, maintained or altered upon any Lot, otherwise than in accordance with the plans and specifications approved by the ACC pursuant to the provisions of this Article, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. If in the opinion of the ACC such violation shall have occurred, the ACC shall notify the Association and the Board shall take appropriate measures to correct the violation, the Board shall provide written notice to the Owner by certified mail, setting forth in reasonable detail the nature of the violation and the specific action or actions required to remedy the violation. If the Owner shall not have taken reasonable steps toward the required remedial action within thirty (30) days after the mailing of the aforesaid notice of violation, then the Association shall have the Right of Abatement as provided in Section 8.02 hereof.

5.12 Certification of Compliance.

(a) Upon completion of the installation, construction or alteration of any Structure in accordance with plans and specifications approved by the ACC, the ACC shall, upon written request of the Owner thereof or upon the ACC's own initiative, issue a Certificate of Compliance, identifying such Structure and the Lot upon which such Structure is placed, and stating that the plans and specifications have been approved and that such Structure complies with such plans and specifications. A copy of said Certificate shall be filed for permanent record with the plans and specifications on file with the ACC.

(b) Any Certificate of Compliance issued in accordance with the provisions of this Section shall be prima facie evidence of the facts therein stated; and as to any purchaser or encumbrancer in good faith and for value, or as to any title insurer, such certificate shall be conclusive evidence that all Structures on the Lot comply with all the requirements of this Article, provided, however, that the Certificate shall in no way be construed to certify the acceptability, sufficiency or approval by the ACC of the actual construction of Structures or of the workmanship, or to represent or warrant to anyone the quality, function or operation of the Structures or of any construction, workmanship, engineering, materials or equipment.

The issuance of the Certificate shall in no way be construed to certify to any party that the Structures have been built in accordance with any applicable rule or regulation.

5.13 Fees. The ACC may impose and collect a reasonable and appropriate fee to cover the cost of review of plans and of inspections performed pursuant to Section 5.10. The fee shall be established from time to time by the ACC and published in the Design Standards.

5.14 Nondiscrimination by ACC. The ACC shall not discriminate against any applicant requesting its approval of plans and specifications because of such applicant's race, color, sex, religion, age or national origin. Further, the ACC in the exercise of its powers granted pursuant to this Declaration shall not take any action the intent or effect of which is to discriminate against persons of a particular race, color, sex, religion, age or national origin.

5.15 Disclaimer as to ACC Approval. Plans and specifications are not reviewed for all systems, mechanical, plumbing, electrical, engineering, or structural design or quality of materials, and by approving such plans and specifications neither the ACC, the members thereof, nor the Association assumes liability or responsibility therefor, nor for any defect in any Structure constructed from such plans and specifications. Neither Declarant, the Association, the ACC, the Board, nor the officers, directors, members, employees, and agents of any of them shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner of property affected by these Restrictions, by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications and every Owner agrees that he will not bring any action or suit against Declarant, the Association, the ACC, the Board, or the officers, directors, members, employees, and agents of any of them to recover any such damages and hereby releases, quitclaims, and covenants not to sue for any claims, demands, and causes of action arising out of or in connection with any judgment, negligence, or nonfeasance, and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

5.16 Modification Committee.

(a) The ACC shall establish a modifications committee (the "Modifications Committee") to exercise exclusive jurisdiction over the modifications, additions, or alterations made on, or to, existing Structures as provided in Section 5.06 hereof, and shall have such other responsibilities as may be delegated to it by the ACC.

(b) The Modifications Committee will set standards, review and act upon all proposed modifications or improvements to those Lots where Residences have been constructed and sold and are owned by someone other than the Declarant, its successors or assigns or a builder. This Committee will be comprised of no less than three (3) members with at least two (2) members required to be members of the Association. The Modifications Committee will be governed by the Board and shall generally adhere to all the provisions set forth in this Declaration for the ACC pertaining to approval of plans and specifications.

(c) The Modifications Committee shall promulgate detailed standards and procedures governing its area of responsibility and practice. In addition thereto, the following shall apply: plans and specifications showing the nature, kind, shape, color, size, materials and location of such modifications, additions, or alterations, shall be submitted to the Modifications Committee for approval as to quality of workmanship and design and harmony of external design with existing Structures and as to location in relation to surrounding Structures, topography, and finish grade elevation. Nothing contained herein shall be construed to limit the right of the Owner to remodel the interior of a Structure or to paint the interior of a Structure any color desired.

ARTICLE VI
GENERAL COVENANTS AND RESTRICTIONS

6.01 Application. The covenants and restrictions contained in Article VI shall pertain and apply to all Lots and to all Structures erected or placed thereon.

6.02 Restriction of Use. All buildings, Residences, Structures, and other improvements erected, altered, or placed on a Lot shall be of new construction, and no structure of a temporary character, trailer, mobile home, tent, shack, garage, barn, or outbuilding shall be used on a Lot at any time as a Residence, either temporarily or permanently. No part of the Property shall ever be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other non-residential purposes. No duplexes or other attached housing for more than one dwelling unit shall be erected on any Lot.

Temporary structures and model homes may be used as building offices and other related purposes by Declarant or a builder who is currently constructing homes for resale within the Property. No builder shall be allowed to maintain an office or model home for the purpose of the sale of homes unless said builder is conducting an active sales program within the Property and not for the purpose of sales in other subdivisions outside of the Property.

6.03 Resubdivision of Property. No Lot may be split, divided or subdivided for sale, resale, gift, transfer, or otherwise, without the prior written approval of the ACC of plans and specifications for such split, division or subdivision. Notwithstanding the foregoing, nothing herein shall prevent Declarant or the Owners of any Lots from combining two or more Lots into one Lot for construction of a single Residence thereon; provided, however, that such combined Lot may not be subdivided thereafter; and provided further, that the Owner of the Residence on such Lot shall be responsible for annual and special assessments based upon the number of Lots combined into one Lot.

6.04 Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the ACC of plans and specifications for the prevention and control of such erosion or siltation. The ACC may, as a condition of approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. Such means may include (by way of example and not of limitation) physical devices for controlling the run-off and drainage of water, special precautions in grading and

otherwise changing the natural landscape and required landscaping as provided for in Section 6.05. Guidelines for the prevention and control of erosion and siltation may be included in the Design Standards of the ACC.

6.05 Landscaping. No construction or alteration of any Structure shall take place without the prior written approval by the ACC of plans and specifications for the landscaping to accompany such construction or alteration. A written plan of landscaping must be submitted to the ACC prior to installation of any materials; this plan shall include a drawing to show location and description of all "hardscape" items such as fences, walls, rocks and so forth. A minimum landscaping allowance of \$1,500.00 per Lot for the front yard, excluding sod and irrigation system, shall be established for all new construction. This allowance may be increased or decreased at the discretion of the ACC. Owner shall be required to sod the front yard and all side yards which are visible from a street with a permanent, heat tolerant grass (i.e. Bermuda, St. Augustine, or other grass approved by the ACC). Ground cover composed of living material such as ivy or asiatic jasmine may be allowed if approved by the ACC.

No "desert style" landscaping, rock covered yards or other stone yard cover will be allowed.

Owner must plant at least two 4" caliper or better trees in the front yard. The street-facing side yards or corner lots shall also be irrigated and install sod or hydroseed according to the same seasonal schedule and plant at least two 4" caliper trees in the side yard. The 4" caliper trees requirement may be waived if the front yard contains three (3) or more existing trees. All rear yards visible from a street must be sodded within sixty (60) days of occupancy of a Residence.

Landscaping shall be complete in accordance with approved plans not later than sixty (60) days after: (1) final inspection by the City of Benbrook, Texas, building inspector and/or the Tarrant County building inspector as may be applicable, or (2) occupancy of a Residence, whichever is earlier. In the case of existing homes, proposed changes and additions in landscaping must be submitted for approval by the ACC in the same detail as new construction. Once the plans have been approved by the ACC, a time frame for completion of the approved changes shall be agreed upon between the ACC and the homeowner.

6.06 Existing Trees. No tree having a diameter of three (3) inches or more [measured from a point two (2) feet above ground level] shall be removed from any Lot unless such removal is in conformity with approved landscaping plans and specifications submitted pursuant to the provisions of Section 6.05 hereof.

6.07 Temporary Buildings. No temporary building, trailer, garage or building under construction shall be used, temporarily or permanently, as a residence on any Lot except as temporary sleeping or living quarters required or desirable for security purposes in accordance with plans and specifications therefor approved by the ACC. Temporary structures and model homes may be used as building offices pursuant to the provisions of Section 6.02.

6.08 Outbuildings. No metal storage outbuildings shall be erected, placed or maintained upon any Lot in the Property. No treehouse or children's playhouse shall be permitted on any Lot in the Development without prior written approval of the ACC. Outbuildings or other structures,

temporary or permanent, other than the Residence or garage shall be limited to eight feet (8') in height and shall be subject to approval by the ACC. Any other type of permitted outbuilding must be in keeping with the overall character and aesthetics of the Residence located on the Lot. The ACC shall require prior approval of, but not limited to, all outbuildings, play structures, shade structures or pool buildings. Any outbuilding will be required to be constructed with material and of a design that is determined by the ACC to be compatible with the design of the Residence. All playground and recreational equipment shall be placed at the rear of a Lot. No outbuilding or play structure will be permitted to be placed on easements; be located nearer than five feet (5') to an interior side line of the Lot; or forward of the front building line. The ACC is hereby authorized to determine what constitutes a violation of this restriction.

6.09 Prefabricated Structures. Prefabricated or factory built structures shall not be permitted within the Property, and such manufactured units shall not be employed as elements in the construction of Structures affixed to Lots or Residences within the Property except by express written consent of the ACC.

6.10 Signs.

(a) No signs whatsoever (including but not limited to commercial and similar signs) shall, without the ACC's prior written approval of plans and specifications therefor, be installed, altered or maintained on any Lot, or on any portion of a Structure visible from the exterior thereof, except:

(i) such signs as may be required by legal proceedings;

(ii) not more than one "For Sale" sign, such sign having a maximum face area of four square feet, provided that such sign may only be displayed in the front yard of a Lot; and, provided, further, that if, at the time of any desired use of such sign, the Association is making "For Sale" signs available for the use of Owners, the signs made available by the Association must be used;

(iii) directional signs for vehicular or pedestrian safety in accordance with plans and specifications approved by the ACC;

(iv) any sign required by any governmental authority having appropriate jurisdiction; and

(v) temporary signs (i.e. garage, lawn sales, etc.).

(b) In no event during approved construction of any Structure shall more than one job identification sign be approved by the ACC.

(c) All "for rent" or "for lease" signs are prohibited.

(d) The number of temporary signs must be kept to a minimum and may be put up no sooner than 24 hours in advance of a sale. Signs must be removed promptly after a sale has ended.

(e) No sign may be placed on the Common Property or the entrance areas to the Development without written approval of the ACC.

6.11 Setbacks. Building area set backs shall be within the building lines indicated on the recorded subdivision plats of the Property and as specified in the City of Benbrook Zoning Ordinance (hereinafter referred to as "Zoning Ordinance"). In no event shall the setbacks be less than those required by the Zoning Ordinance unless a variance is granted by the appropriate governmental authority and approved by the ACC. In approving plans and specifications for any proposed Structure, the ACC may require more restrictive setbacks than the minimum specified in the Zoning Ordinance for the location of such Structure. Notwithstanding the preceding sentence, the maximum front set back shall be thirty feet. All such setbacks shall be established such that they do not violate the provisions of applicable ordinances, laws, rules, regulations or the provisions of the subdivision plat(s) establishing the Development. No Structure shall be erected or placed on any Lot unless its location is consistent with such setbacks.

6.12 Retaining Walls and Fences. No fence or wall of any kind shall be erected, maintained, or altered on any Lot without the prior written approval of the ACC of plans and specifications for such fences and walls. No fence shall be constructed in violation of any applicable ordinances, laws, rules, regulations, or the provisions of the subdivision plat(s) establishing the Development.

Fences and screening may be used with the Property to define private spaces or to attract or to divert attention to or from particular views. Certain objects which may be fenced or screened include: (1) free standing utility apparatus, e.g. transformers, switching equipment, etc.; (2) exterior, ground level machinery, e.g. heating and air conditioning equipment; (3) outside storage and service areas for equipment and supplies; and (4) refuse containers and related storage areas.

Acceptable methods of screening are as follows: (1) Earth banks and berms which shall have a maximum slope of 2:1 and be covered with plant material as approved by the ACC; (2) landscaping planting screens, hedges, etc.; (3) masonry walls or other materials which would be compatible with the approved retaining walls; (4) decorative iron as approved by the ACC; or (5) fencing as approved by the ACC. All such fence plans must be submitted to and approved by the ACC prior to construction.

General guidelines for fences shall include: (1) no fence shall be constructed more than 6' above grade in height; (2) landscape planting as an integral component; (3) no woven metal or chain link fences will be allowed except as approved by the ACC as small area pet enclosure (i.e. dog run), such pet enclosures to be screened by privacy fencing from direct view from the street as well as other fencing and/or plant materials as may be required and approved by the ACC; and (4) no fence which completely blocks vision shall be constructed except where the need for privacy is evident and approved by the ACC.

6.13 Roads and Driveway. No road or driveway shall be constructed or portion altered on any Lot without the prior written approval of the ACC of plans and specifications for such roads and driveways. Guidelines relating to the design and location of roads and driveways may be included in the Design Standard of the ACC. No road or driveway shall be constructed in violation of any applicable ordinances, laws, rules, regulations, or the provisions of the subdivision plat(s) establishing the Development.

6.14 Antennae, Etc. No antennae, satellite dish, or electronic device of any type shall be placed on any Residence, Structure or Lot so as to be visible from a street. No antennae shall be installed or used for the purpose of transmitting of electronic signals.

6.15 Clotheslines, Garbage Cans, Etc. All clothesline, equipment, garbage cans and woodpiles shall be kept screened by adequate planting or fencing so as to conceal them from view by neighboring residences and streets, and may be maintained in the rear yard on a Lot only.

6.16 Maintenance. The owner of each lot shall maintain the same and adjacent street right-of-way, and the improvements, sod, trees, hedges, and plantings thereon, in a neat and attractive condition. Such maintenance shall include regular mowing, edging of turf areas, weeding of plant beds, fertilizing, weed control and watering of the turf and landscape areas on each Lot. Diseased or dead plants or trees must be removed and replaced within a reasonable time frame. On front lawns and wherever visible from any street, there shall be no decorative appurtenances placed, such as sculptures, birdbaths, birdhouses, fountains or other decorative embellishments unless such specific item(s) has been approved in writing by the ACC. The Association or Declarant shall have the right, after ten (10) days' notice to the Owner of any Lot setting forth the action intended to be taken by the Association or Declarant, provided at the end of such time such action has not already been taken by such Owner, (i) to mow or edge the grass thereon, (ii) to remove any debris therefrom, (iii) to trim or prune any tree, hedge, or planting that, in the opinion of the Association or Declarant, by reason of its location or height or the manner in which it has been permitted to grow, is detrimental to the enjoyment of adjoining property or is unattractive in appearance, (iv) to repair or stain/paint any fence thereon that is out of repair or not in harmony, with respect to color, with fencing on adjacent property, and (v) to do any and all things necessary or desirable in the opinion of the Association or Declarant to place such property in a neat and attractive condition consistent with the intention of this Declaration. The person who is the Owner of such property at the time such work is performed by the Association shall be personally obligated to reimburse the Association for the cost of such work within ten (10) days after it is performed by the Association, and if such amount is not paid within said period of time, such Owner shall be obligated thereafter to pay interest thereon at the maximum rate allowable by law, and to pay attorneys' fees and court costs incurred by the Association in collecting said obligation, and all of the same shall be secured by a lien on such Owner's property, subject to liens then existing thereon. Such lien shall be enforceable as any other assessment lien as provided in this Declaration.

6.17 Commercial and Recreational Vehicles and Trailers. No commercial vehicle, commercial use truck, bus, trailer, mobile home, recreational vehicle, camper, truck with camper top, boat, boat trailer, self-propelled or towable equipment or machinery of any sort or any item deemed offensive by Declarant, ACC, or Association or like equipment shall be permitted on any Lot on a permanent basis. Nor shall any such equipment be allowed on any street right-of-way without movement for a period of twenty-four (24) hours or more during a period of seven (7) consecutive

days. No junk vehicles or vehicles in disrepair or neglect shall be stored, repaired or displayed on any Lot, street or otherwise in the Development. Notwithstanding the foregoing, any such vehicles or equipment may be stored on a Lot, provided such vehicle or equipment is kept in an enclosed space and is concealed from view by neighboring residences and streets. During the construction of improvements on a Lot, necessary construction vehicles may be parked thereon for and during the time of construction of the Residence.

This restriction shall not apply to automobiles or small passenger trucks in good repair and attractive condition, provided that any such vehicles are parked on an improved driveway which has been approved by the ACC. No vehicle shall ever be permitted to be parked on the front or side lawn within view of the public.

The ACC and Board reserve the right to restrict street right-of-way parking on specific streets within the Development when street parking could detract from the architectural harmony of an area or cause restricted street access to normal traffic flow or emergency vehicles.

6.18 Recreational Equipment. Recreational and playground equipment shall be placed or installed only upon the rear of a Lot as approved by the ACC. Basketball goals may be placed adjacent to the driveway if the backboards are installed behind the front building line and are constructed of a clear plexiglass as approved by the ACC. No above ground pools shall be allowed.

6.19 Non-Discrimination. No Owner or person authorized to act for an Owner shall refuse to sell or rent, after receiving a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny the purchase or rental of any Lot to any persons because of race, color, religion, sex, age or national origin. Anything in this Declaration to the contrary notwithstanding, this covenant shall run with the land and shall remain in effect without any limitation in time.

6.20 Animals. No agricultural animals may be kept on any Lot and no animals, including birds, insects, reptiles, sheep, goats, horses, cattle, poultry, dangerous animals (the determination as to what is a dangerous animal shall be in the sole discretion of the Association's Board), livestock of any kind shall ever be kept in the Development except that dogs, cats or other common household pets (not to exceed a total of three animals) may be kept by the Owner or tenant of any Residence, provided they are not kept for any commercial purpose. Any allowable pet that is kept in a household must be confined to its Owner's Lot either by constraints of a backyard fence, a leash or within the residence. No animal shall be permitted to run freely away from its Owner's Lot and must be controlled by a leash or trained to walk with the Owner unleashed. All applicable leash and licensing laws in effect in the City of Benbrook and Tarrant County shall also apply to this animal husbandry provision. No animal shall be allowed to become a nuisance. No Structure for the care, housing or confinement of any animal shall be constructed, placed or altered on any Lot unless plans and specifications for said Structure have been approved by the ACC.

6.21 Trash and Rubbish Removal. No trash, rubbish, garbage, manure, or debris of any kind shall be kept or allowed to remain on any Lot. The Owner of each Lot shall remove such prohibited matter from his Lot at regular intervals at his expense, and prior to such removal all such prohibited matter shall be placed in sanitary refuse containers with tight fitting lids in an area adequately screened by planting or fencing so as not to be seen from neighboring Lots or public or

private streets. If rubbish, garbage, or any other form of solid waste is to be disposed of by being collected on a regular and recurring basis, containers may be placed in the open on any day that a pick-up is to be made, in order to provide access to persons making such pick-up. Except during approved construction and as approved by the appropriate governmental authority, no person shall burn rubbish, garbage, or any other form of solid waste on any Lot or on Common Property. Except for building materials employed during the course of construction of any Structure approved by the ACC, no lumber, metals, bulk materials or solid waste of any kind shall be kept, stored, or allowed to accumulate on any Lot unless screened or otherwise handled in a manner set forth in the Design Standards. Reasonable amounts of construction materials and equipment may be stored upon a Lot for reasonable periods of time during the construction of improvements thereon.

6.22 Reasonable Enjoyment. No nuisance shall ever be erected, placed, or suffered to remain upon any Lot in the Property and no Owner of, or resident on, any Lot in the Property shall use the same so as to endanger the health or disturb the reasonable enjoyment of any other Owner or resident. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereof which may be or may become an annoyance or nuisance to the community. The Association's Board is hereby authorized to determine what constitutes a violation of this restriction.

6.23 Chimney Stacks. Chimney stacks on front of Residences may not be cantilevered and hang in the air. They must sit on foundations veneered with brick, stone or other approved masonry material as applicable to each individual Residence.

6.24 Exterior Surfaces. All Residences shall be constructed of at least 75% masonry on all exterior walls unless otherwise approved by the ACC. Recommended siding materials include brick, stone, stucco, wood lap siding and hard board lap siding. Large sheet siding (i.e. 4' x 8' sheets) shall not be used unless approved by the ACC. There shall be no bright red, orange or unusual looking brick. All brick mortar shall be in subdued colors and samples must be submitted for ACC approval. Old used brick will be accepted in special circumstances, as will be the painting of brick. All gables which face the front of the Residence or which face a side street, if on a corner Lot, shall be constructed or faced with the same masonry material as the rest of the Residence. All chimneys shall be of masonry material unless otherwise approved by the ACC.

Stucco is a specialized house finish. Stucco Residences shall only be approved by a special request and only after the ACC agrees in writing that stucco fits the street scape and overall community standards. The builder may only use a stucco as outlined in the specifications which will accompany the written approval, if granted.

6.25 Roofing. Roofing material and color shall be specified in the plans submitted to the ACC for approval. All roof stacks and flashing must be painted to blend with the roof color.

Minimum roof pitch on the front elevation shall be 6 to 12, unless approved by the ACC. Certain architectural styles, e.g. Georgian, do not require as steep a minimum roof pitch and will be analyzed on a case by case basis by the ACC. Minimum roof pitch on rear elevations and certain front to back elevation shall be 6 to 12, unless approved by the ACC.

Roof material shall be a quality composition shingle. Other roofing materials may include natural or approved artificial slate, fire treated wood shingle or #2 shake, or better, or clay

or concrete tile of a type, style or color as approved by the ACC. In no event shall the pitched portion of the roof be comprised of more than one material.

6.26 Driveways. Driveways shall be constructed with concrete or other hard surface material such as paving stones or brick that is compatible with the overall landscape flatwork scheme and as approved by the ACC. Existing trees, topography and landscape planning should be taken into consideration and where possible driveways should curve. Front yard circular driveways and off street parking areas may be approved at the discretion of the ACC.

6.27 Pool and Spa Equipment. Plans for proposed swimming pools, hot tubs, surrounding decks, fencing and screening must be submitted for approval before any cleaning, grading or construction is commenced. All swimming pools and hot tubs must be fenced in accordance with the applicable City of Benbrook Ordinance. No above-ground pools will be approved.

6.28 Mailboxes. All mailboxes shall be constructed of brick, ornamental iron or masonry material to match or be comparable with the style and materials of the Residence or community box.

6.29 Oil and Mining Operations. Declarant reserves, for Declarant and Declarant's successors and assigns forever, all oil, gas, and other minerals in and under and that may be produced from the property. If the mineral estate is subject to existing production or an existing lease, this reservation includes the production, the lease, and all benefits from it. Declarant waives the right to use the surface of the property for any ingress, egress, exploration, development, operations, storage, and transportation relating to the mineral estate owned by Declarant. Nothing herein, however, restricts or prohibits the pooling and unitization of the mineral estate owned by Declarant with land other than the property, or the exploration or production of the oil, gas, and other minerals by means of wells that are drilled or mines that open on land other than the property but enter or bottom under the property, provided that these operations do not interfere with the surface or subsurface support of any improvements constructed or to be constructed on the property.

6.30 Commercial Use. No activity, whether for profit or not, which is not related to single-family residential purposes, shall be carried on any Lot, except on those Lots which may be designated by the ACC for use as sales offices, construction offices, and storage facilities for a period of time commensurate with home construction and sales within the Property. Except for this temporary use on selected Lots, no noxious or offensive activity of any sort shall be permitted, nor shall anything be done, on any Lot which may be or become an annoyance or nuisance to the neighborhood.

6.31 Septic Tanks. No cesspool, septic tank or privy shall be placed or maintained on any Lot.

6.32 Declarant's Rights During Development Period. During that period of time while any parcels of land or Lots located within the Property are being developed and marketed (the "Development Period"), the Declarant, with the right of assignment, shall have and hereby reserves the right to reasonable use of the Common Area and land owned by Declarant within the Property in connection with the promotion and marketing of land within the boundaries of the Development. Without limiting the generality of the foregoing, Declarant may erect and maintain such signs, temporary buildings, model homes, and other structures as Declarant may reasonably deem necessary

or proper with the promotion, development, and marketing of land within the Property during the Development Period.

6.33 Builder Rights. During the Development Period, the ACC shall have the right to allow an approved builder in the Development the right to erect and maintain such signs, model homes, and other structures as the ACC may reasonably deem necessary or proper in connection with builder's promotion, development, and marketing of Lots and Residences located within the Development. The approvals granted by the ACC, as described above, are discretionary and may be revoked if in the opinion of the Declarant the builder does not comply with guidelines established by the ACC or the Declarant. Builder shall be given at least ten (10) days notice to comply with any revocation of approval by the ACC.

6.34 Construction Work. Except in an emergency, or when other unusual circumstances exist as determined by the Board, outside construction work or noisy interior construction work shall be permitted only after 6:00 A.M. and before 9:00 P.M.

6.35 Electrical, Telephone and Other Utility Lines. All electrical, telephone and other utility lines and facilities which (i) are located on a Lot, (ii) are not within or part of any Structure, and (iii) are not owned by a governmental entity, a public utility company, or the Association, shall be installed in underground conduits or other underground facilities. Lighting fixtures may be installed above ground if approved in writing by the ACC.

6.36 Window Coolers. No window or wall type air conditioners or water coolers shall be permitted to be used, erected, placed or maintained on, or in, any Residence on any part of the Lot.

6.37 Minimum Home Size. No single family residence shall be located on any Lot unless said Structure shall meet or exceed the minimum square feet (heated living area) requirement established by any applicable zoning ordinance or in no event shall the minimum square feet be less than 1,700. First floor must be a minimum of 1,700 square feet (heated living area). The above minimum floor space requirements may be reduced by 10% on any lot if approved in writing by the ACC.

6.38 Garages. All garage doors which are visible from a street must be kept closed at all times except for allowing for ingress and egress. No carports visible from the street shall be permitted on any Lot.

ARTICLE VII EASEMENTS, ZONING AND OTHER RESTRICTIONS

7.01 Easements.

(a) Declarant hereby expressly reserves to the Declarant, its successors and assigns forever, the right to create perpetual easements in, on, over and under any part of the Property owned by Declarant for any purpose which Declarant deems necessary, including, by way of example, and not limitation, the following:

(i) the erection, installation, construction and maintenances of wires, lines, conduits and poles and the necessary or proper attachments in connection with the transmission of electricity, telephone, cable television cables and other utilities and similar facilities;

(ii) the erection, installation, construction and maintenance of storm-water drains, land drains, public and private sewers, irrigation systems, pipelines for supplying gas, water and heat, and for any other public or quasi-public facility, service or function;

(iii) slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity which might interfere with slopes or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow; and

(iv) the planting or re-planting of hedges, shrubbery, bushes, trees, flowers and plants of any nature.

(b) An easement is hereby granted to all police, fire protection, ambulance and other emergency vehicles and other service vehicles to enter upon the Common Property including, but not limited to, private streets, in the performance of their duties and further, an easement is hereby granted to the Association, its officers, agent, employees, and management personnel to enter the Common Property to render any service.

(c) Each Lot and its Owner is hereby declared to have an easement, and the same is hereby granted to Declarant, over all adjoining Lots and Common Property for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of any Structure, or any other cause. There shall be easements for the maintenance of said encroachment, settling or shifting, provided, however, that in no event shall an easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a Structure on any Lot is partially or totally destroyed and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots shall be permitted and there shall be easements for the maintenance of said encroachments so long as they shall exist. Each of the easements hereinabove referred to shall be deemed to be established upon the recordation of this Declaration and shall be appurtenant to the Lot being serviced and shall pass with each conveyance of said Lot.

(d) In the event that audio and video communication services and utilities are made available to any of said Lots by means of an underground coaxial cable system, the company furnishing such services and facilities shall have a two foot (2') wide easement along and centered on the underground wire or cable when and as installed by said company from the utility easement nearest to the point of connection on the permanent improvement or Structure constructed, or to be constructed upon said Lot, and in a direct line from said nearest utility easement to said point of connection.

(e) No Owner shall have any right to use any easement retained by the Declarant or conveyed by Declarant to the Association in a manner which is inconsistent or which interferes with the intended use for such easement.

7.02 Easement Area. The words "Easement Area" as used herein shall mean those areas on any Lot or any other portion of the Property with respect to which easements are shown on a recorded deed, easement agreement or on any filed or recorded map or plat relating thereto.

7.03 Entry. The Declarant and its employees, agents, successors and assigns, shall have the right at all reasonable times to enter upon all parts of each Easement Area for any of the purposes for which such Easement Area is reserved, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and the carrying out of such purposes, provided the same are done in accordance with the provisions of this Section. The Declarant and its employees, agents, successors, and assigns shall be responsible for leaving each Lot in good condition and repair following any work or activity undertaken in an Easement Area pursuant to the provisions of Section 7.01.

7.04 Zoning and Private Restrictions. None of the covenants, restrictions or easements created or imposed by this Declaration shall be construed as permitting any action prohibited by the recorded subdivision plat of the Development, applicable zoning laws, or by the laws, rules or regulations of any governmental body. In the event of any conflict between such laws, rules or regulations and the covenants, restrictions and easements created or imposed by this Declaration, the most restrictive provision shall govern and control.

ARTICLE VIII ENFORCEMENT

8.01 Right of Enforcement. This Declaration and the Restrictions contained herein shall inure to the benefit of and shall be enforceable by (i) the Declarant so long as it is an Owner, (ii) the Association, (iii) each Owner, his legal representatives, heirs, successors and assigns.

8.02 Rights of Abatement.

(a) Except where different notice provisions are provided in Sections 5.11 and 6.16, in the event of a violation or breach of any Restriction contained in this Declaration, the Association shall give written notice by certified mail to the Owner setting forth in reasonable detail the nature of such violation or breach and the specific action or actions needed to be taken to remedy such violation or breach. If the Owner shall fail to take reasonable steps to remedy such violation or breach within thirty (30) days after the mailing of said written notice, then the Association shall have the right of abatement ("Right of Abatement").

(b) The Right of Abatement, as used in this Section and in Sections 5.11 and 6.16 hereof, means the right of the Association, through its agents and employees, to enter at all reasonable times upon any Lot or Structure as to which a violation, breach or other condition to be remedied exists, and to take the actions specified in the

notice to the Owner to abate, extinguish, remove, or repair such violation, breach or other condition which may exist thereon contrary to the provisions hereof, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and such actions, provided such entry and such actions are carried out in accordance with the provisions of this Section, and with the costs thereof including the costs of collection and reasonable attorney's fees, together with interest thereon at the lower of the highest rate permitted by Law or 18% per annum to be a binding personal obligation of such Owner enforceable in law, as well as a lien on such Owner's Lot enforceable pursuant to the provisions of Section 8.04 hereof. Such lien shall be superior to any and all charges, liens or encumbrances which may in any manner arise to be imposed upon the Lot after such entry whether arising from or imposed by judgment or decree or by an agreement, contract, mortgage, deed to secure debt, or other instrument, excepting only (i) such liens for taxes or other public charges as are by applicable law made superior, (ii) the liens created by Article IV hereof, and (iii) all deeds of trust or mortgage given to secure a loan the proceeds of which are used (1) to purchase a Lot or Lots (together with any and all Structures which may from time to time be placed or located thereon), or (2) to finance the construction, repair or alteration of Structures.

8.03 Specific Performance. Nothing contained in this Declaration shall be deemed to affect or limit the rights of the Declarant, the Association or any Owner to enforce the Restrictions by appropriate judicial proceedings or to recover damages. However, it is hereby declared that it may be impossible to measure accurately in money the damages which will accrue to a beneficiary hereof, its transferees, successors or assigns, by reason of a violation of, or failure to perform any of the obligations provided by, this Declaration, and therefore, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof.

8.04 Collection of Assessments and Enforcement of Lien.

(a) If any Assessment, interest, cost or other charge is not paid as required by this Declaration, the Association may (i) bring an action at law against the Owner personally obligated to pay the same, (ii) bring an action to foreclose any lien created by this Declaration against the Lot or Lots subject to the lien (which shall include the right, but not the obligation, to file a notice of lien against said Lot in the Deed Records of Tarrant County, Texas), or both, for the purpose of collecting such Assessment, cost or charge, plus any interest thereon and costs of collection, including reasonable attorney's fees.

(b) As an additional remedy, but in no way as a limitation on the remedies, if any Assessment, interest, cost or other charge is not paid as required by this Declaration, each Owner hereby grants to the Association and its assigns the following irrevocable power of attorney. To sell the said Lot or Lots subject to the lien at auction, at the usual place for conducting sales at the Court House in Tarrant County, Texas, to the highest bidder for cash, after providing to the Owner all notices and performing all acts required by Section 51.002 of the Texas Property Code and amendments thereto, all other notice being hereby waived by each Owner, and the

Association or any person on behalf of the Association, or assigns, may bid and purchase at such sale and thereupon execute and deliver to the purchaser or purchasers at such sale a conveyance of said property in fee simple, which conveyance shall contain recitals as to the happenings of the default upon which the execution of the power of sale herein granted depends, and each Owner hereby constitutes and appoints the Association and its assigns, the agent and attorney in fact of each Owner to make such recitals, and hereby covenants and agrees that the recitals so to be made by the Association, or its assigns, shall be binding and conclusive upon the Owner whose property is the subject matter of such sale, and the heirs, executors, administrators and assigns of such Owner, and the Association or assigns shall collect the proceeds of such sale, and after reserving therefrom the entire amount of Assessment, interest, cost or other charge due, together with all costs and expenses of sale and fifteen percentum of the aggregate amount due for attorney's fees, shall pay any excess to such Owner, or to the heirs or assigns of such Owner as provided by law. The power and agency hereby granted are coupled with an interest and are irrevocable by death, incapacity, or otherwise and are granted as cumulative to the remedies for collection of said indebtedness provided by law.

(c) WAIVER. EACH OWNER, BY ACCEPTANCE OF A DEED CONVEYING A LOT SUBJECT TO THIS DECLARATION, TO THE FULLEST EXTENT PERMITTED BY LAW WAIVES ANY RIGHT WHICH OWNER MAY HAVE UNDER THE CONSTITUTION OR THE LAWS OF THE STATE OF TEXAS, (EXCEPTING SECTION 51.002 OF THE TEXAS PROPERTY CODE AND AMENDMENTS THERETO) OR THE CONSTITUTION OR THE LAWS OF THE UNITED STATES OF AMERICA TO NOTICE OR TO A JUDICIAL HEARING PRIOR TO THE EXERCISE OF ANY RIGHT OR REMEDY PROVIDED BY THIS DECLARATION, AND EACH OWNER WAIVES OWNER'S RIGHTS, IF ANY, TO SET ASIDE OR INVALIDATE ANY SALE DULY CONSUMMATED IN ACCORDANCE WITH THE PROVISIONS OF THIS DECLARATION ON THE GROUND (IF SUCH BE THE CASE) THAT THE SALE WAS CONSUMMATED WITHOUT A PRIOR JUDICIAL HEARING. ALL WAIVERS BY OWNER IN THIS PARAGRAPH HAVE BEEN MADE VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY, AFTER OWNER HAS FIRST BEEN ALLOWED THE OPPORTUNITY TO CONSULT LEGAL COUNSEL WITH RESPECT TO OWNER'S POSSIBLE RIGHTS.

8.05 No Waiver. The failure of the Declarant, the Association, or the Owner of any Lot, his or its respective legal representatives, heirs, successors and assigns, to enforce any Restrictions herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to any violation or breach occurring prior or subsequent thereto.

ARTICLE IX
DURATION AND AMENDMENT

9.01 Duration. This Declaration and the Restrictions contained herein shall run with and bind the Property for perpetuity. The provisions of this Section requiring that this Declaration and the Restrictions bind the Property in perpetuity shall not be subject to amendment.

9.02 Amendments by Declarant. During any period in which Declarant retains the right to appoint and remove any directors and officers of the Association, Declarant may amend this Declaration by an instrument in writing filed and recorded in the Deed Records of Tarrant County, Texas, without the approval of any Member or mortgagee; provided, however, that (i) in the event that such amendment materially alters or changes any Owner's rights to the use and enjoyment of such Owner's Lot or of the Common Property as set forth in this Declaration or if such amendment adversely affects the title to any Lot, such amendment shall be valid only upon the written consent thereto by a majority in number of the then existing Members affected thereby, or (ii) in the event that such amendment would materially and adversely affect the lien status, security and interest of any mortgagee, such amendment shall be valid only upon the written consent thereto of all such mortgagees so affected. Any amendment made pursuant to this Section 9.02 shall be certified by Declarant as having been duly approved by Declarant, and such Members and mortgagees if required, and shall be effective only upon recordation or at such later date as shall be specified in the amendment itself. Each Owner, by acceptance of a deed or other conveyance to a Lot, agrees to be bound by such amendments as are permitted by this Section 9.02 and further agrees that, if requested to do so by Declarant, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Development (i) if such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule or regulation or any judicial determination which shall be in conflict therewith, (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Lots subject to this Declaration, (iii) if such amendment is required by an institutional or governmental lender, purchaser or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on any Lot subject to this Declaration, (iv) if any such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration, or (v) if such amendment is necessary to correct a scrivener's error in the drafting of this Declaration.

9.03 Amendments by Association. Amendments to this Declaration, other than those authorized by Section 9.02 hereof, shall be proposed and adopted in the following manner:

(a) Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered and shall be delivered to each member of the Association;

(b) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board or by Members of the Association. Such amendment must be approved by Members holding at least two-thirds (2/3rds) of the total votes in the Association provided, however, (i) that any amendment which materially and adversely affects the lien status, security and interest of any mortgagee must be

approved by such mortgagee, and (ii) during any period in which Declaration has the right to appoint and remove officers and directors of the Association, such amendment must be approved by Declarant; and

(c) The agreement of the required percentage of the Owners and, where required, the Declarant and any mortgagee, to any amendment of this Declaration shall be evidenced by their execution of such amendment, or, in the alternative, and provided that Declarant does not have the right to approve such amendment, the sworn statement of the President and any Vice President or the Secretary of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that the agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when recorded or at such later date as may be specified in the amendment itself.

9.04 Amendment Restrictions. Notwithstanding any other language or provision to the contrary in this Declaration, the Articles of Incorporation, or the Bylaws of the Association, the Association and/or the Declarant may not amend provisions contained herein regarding the Common Property Maintenance Fund, and regarding maintenance of the Common Property, the Perimeter Wall and the Perimeter Wall Landscaping, without the express written approval of the City of Benbrook, Texas.

ARTICLE X ANNEXATION AND FUTURE DEVELOPMENT

10.01 Annexation. For so long as Declarant has authority to appoint and remove Directors and Officers of the Association, additional real property may be annexed to the Property by the Declarant without the consent of the Class A Members. Such annexation may be accomplished by (i) filing in the Deed Records of Tarrant County, Texas, an approved subdivision plat describing the real property to be annexed to the Property and by including on such subdivision plat a statement that expressly sets forth the Declarant's intention to make such annexed real property subject to the provisions of this Declaration; or (ii) filing an amendment to the Declaration which has been consented to by the owners of the real property to be annexed if such real property is owned by someone other than Declarant; or (iii) amending the existing subdivision plat to include the real property to be annexed. Each Owner, by acceptance of a deed to his or her Lot, shall be deemed to have consented to and approved of all such amendments to the Declaration, amendments to any existing subdivision plats and new subdivision plats placed of record which are to be subject to the provisions of this Declaration. At the expiration of Declarant's right to appoint and remove Directors and Officers of the Association, no real property may be annexed to the Property unless such annexation is approved by a two-thirds (2/3rds) vote of the Members of the Association who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the provisions of the Bylaws of the Association.

10.02 Future Development. Notwithstanding any other provision contained herein to the contrary, and subject to applicable zoning regulations, Declarant shall have the right, for so long as Declarant has the authority to appoint and remove Directors and Officers of the Association, to

annex real property according to the procedure set forth in Section 10.01, which real property may be developed as office, retail, commercial property, apartment complexes, condominiums, attached townhomes, or single family residences. At the time of such annexation, Declarant shall determine, on an equitable basis, the proportional share of the Assessments payable by and the number of votes allocated to such property, which determination will be based upon the degree to which the Occupants of said property have the right to use and are benefited by the Common Areas. Such determination shall be made by amendment to this Declaration, which shall not require the approval of any Member or third party. Notwithstanding the foregoing, in no event shall the Owner(s) of such property annexed pursuant to this Section 10.02 be entitled to more than one (1) vote per 4 apartment units, with respect to an apartment complex.

ARTICLE XI
MISCELLANEOUS

11.01 No Reverter. No restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

11.02 Severability. A determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.

11.03 Headings. The headings of the Articles and Section hereof are for convenience only and shall not affect the meaning or interpretation of the contents of this Declaration.

11.04 Gender. Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular, the plural, and vice versa.

11.05 Notices. All amendments, notices, requests, objections, waivers, rejections, agreements, approvals, disclosures or consent of any kind made pursuant to this Declaration, whether made by the Declarant, the Association, the ACC, the Owner, or any other person, shall be in writing. All such writings shall be sufficient only if deposited in the United States Mail, certified or registered, return receipt requested, with sufficient postage, and sent to the following addresses:

(a) Declarant: GBR Realty, Ltd.
 7755 Bellaire Drive South
 Fort Worth, Texas 76132

(b) Owners: Each Owner's address as registered with the Association in
 accordance with the Bylaws.

Any written communication transmitted in accordance with this Section 11.05 shall be deemed received on the third (3rd) day following the day such written notice is deposited in the United States Mail.

11.06 No Liability. Declarant has, using best efforts and all due diligence, prepared and recorded this Declaration so that each and every Owner shall have the right and the power to enforce the terms and provisions of this Declaration against every other Owner. However, in the event that

this Declaration is, for any reason whatsoever, unenforceable by an Owner (or any other person) in a court of law or otherwise, Declarant shall have no liability of any kind as a result of such unenforceability, and each and every Owner, by acceptance of a deed conveying a Lot, acknowledges that declarant shall have no such liability.

11.07 Insurance.

(a) At all times during the term of this Declaration, the Association, its successors and assigns, shall be required to keep all improvements located on the Common Property fully insured by a reputable insurance company authorized to transact business in the State of Texas with (i) fire, vandalism, malicious mischief and extended coverage insurance in an amount adequate to cover the cost or replacement of such improvements in the event of loss of any and/or all of such improvements, fixtures and contents thereof; and (ii) public liability insurance in such amounts as shall be determined by the Board of Directors as appropriate for the Common Property.

(b) Immediately after the damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the costs of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty.

Any damage or destruction shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least seventy-five percent (75%) of the total Association entitled to vote thereon, and, so long as the Declarant has the right to appoint and remove directors, the Declarant, otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed one hundred twenty (120) days. No Mortgagee shall have right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Association's Members, levy a Special Assessment. Additional Assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited for the benefit of the Association.

In the event that it should be determined by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then in that event the property shall be restored to its natural state and maintained as an undeveloped portion of the Development in a neat and attractive condition.

(c) The deductible for any casualty insurance policy carried by the Association shall, in the event of damage or destruction, be allocated among the persons who are responsible hereunder for maintenance of the damaged or destroyed property.

(d) In addition to the coverage described hereinabove, the Association shall obtain such additional amounts and types of insurance as may be required from time to time, by either the Veterans Administration or Federal Housing Administration, their successors and assigns, for similar type residential subdivision communities.

11.08 Indemnification and Hold Harmless.

(a) The Association shall indemnify every officer and director against any and all expenses, including counsel fees reasonably incurred by or imposed upon any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being, or having been, an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation.

(b) Each Owner shall be liable to the Association for any damage to the Common Property of any type or to any equipment thereon which may be sustained by reason of the negligence of said Owner, his tenants, employees, agents, customers, guests or invitees, to the extent that any such damage shall not be covered by insurance. Each Owner does further, by the acceptance of a deed, agree to indemnify each and every other Owner, and to hold harmless each and every other Owner, from any claim of any person for personal injuries or property damage occurring within or upon his Lot.

(c) THE ASSOCIATION AGREES TO FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY OF BENBROOK, ITS OFFICERS, AGENTS, AND EMPLOYEES, FROM ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS OR CAUSES OR ACTION OF ANY NATURE WHATSOEVER, WHETHER REAL OR ASSERTED, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES TO PERSONS OR PROPERTY INCLUDING DEATH, RESULTING FROM OR IN ANY WAY CONNECTED WITH THE CONSTRUCTION, MAINTENANCE OR OPERATION OF THE COMMON PROPERTY.

ARTICLE XII MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first mortgages on Residences in the Development. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

12.01 Notices of Action. An institutional holder, insurer, or guarantor of a first mortgage, who provides written request to the Association (such request to state the name and address of such holder, insurer, guarantor and the Residence number, therefore becoming an "eligible holder"), will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Development or which affects any Residence on which there is a first mortgage held, insured, or guaranteed by such eligible holder;

(b) any delinquency in the payment of Assessments or charges owed by an Owner of a Residence subject to the mortgage of such eligible holder where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Residence of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days; or

(c) any proposed action which would require the consent of a specified percentage of eligible mortgagees.

12.02 Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least two-thirds (2/3rds) of the first mortgagees or at least two-thirds (2/3rds) of the total Members of the Association entitled to vote thereon consent, the Association shall not:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Property which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent

with the intended use of the Common Property shall not be deemed a transfer within the meaning of this subsection);

(b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Residence;

(c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Residences and of the Common Property (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(d) fail to maintain insurance, as required by this Declaration; or

(e) use hazard insurance proceeds for any Common Property losses for other than the repair, replacement, or reconstruction of such property.

First mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Property and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

12.03 No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first mortgagee of any Residence in the cases of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

12.04 Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any mortgage encumbering such Owner's Residence.

12.05 Amendment by Board. Should the Veterans Administration, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

12.06 Veterans Administration Approval. As long as the Declarant has an option unilaterally to subject property to this Declaration as provided in Article X, the following actions shall require the prior approval of the Veterans Administration so long as the Veterans Administration is guaranteeing any mortgage in the Development: annexation of additional property to the Development, except for annexation by Declarant in accordance with Article X, pursuant to a plan of annexation previously approved by the Veterans Administration; dedication of Common

Property to any public entity; and material amendment of the Declaration, Bylaws or Articles of Incorporation.

12.07 Applicability of Article XII. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Texas law for any of the acts set out in this Article.

12.08 Failure of Mortgagee to Respond. Any mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

ARTICLE XIII CONDEMNATION

13.01 Condemnation or Other Governmental Taking. If all or any part of the Common Property is taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof by the Association with the approval of at least seventy-five percent (75%) of the Class A Members and of Declarant, as long as Declarant owns at least one (1) Lot or has the right to annex property to the Development, the award or proceeds made or collected for such taking or sale in lieu thereof are payable to the Association. The association shall disburse or hold such award or proceeds as follows:

(a) If the taking or sale in lieu thereof involves a portion of the Common Property on which improvements have been construed, then, unless within sixty (60) days after such taking, Declarant, as long as Declarant owns at least one (1) Lot or has the right to annex property to the Development, together with at least seventy-five percent (75%) of the Class A Members, decide otherwise, the Association shall restore or replace the improvements to the extent practicable, on other existing Common Property, in accordance with the plans approved by the Association, the ACC, and by Declarant. If the awards or proceeds are not sufficient to defray the cost of repair and replacement of the improvements and such deficiency cannot be appropriated from a reserve fund established for such purpose, the Association may levy one or more Special Assessments, in an amount sufficient to provide funds to pay such excess cost of repair or reconstruction. If such improvements are not repaired or restored, the Association shall retain the award or proceeds for the benefit of the Association;

(b) If the taking or sale in lieu thereof does not involve any improvements to the Common Property, or if there are excess funds remaining after any restoration or replacement of the improvements, then the Association shall retain the award, proceeds, or excess funds for the benefit of the Association; and

(c) If the taking or sale in lieu thereof includes all or any part of the Common Property, then a court of competent jurisdiction shall apportion such award or proceeds between the Association and the Owners of the other property taken so as

to give just compensation to each. In lieu of seeking judicial apportionment, (i) the Association, (ii) the Owners and their lenders of all Lots and Residences wholly or partially taken, and (iii) Declarant, as long as Declarant owns at least one (1) Lot or has the right to annex property to the Development, may mutually agree on the method of apportionment.

13.02 Condemnation of Lots.

(a) If all or any part of a Lot is taken by an authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof, and the Owner elects not to restore the remainder of the Lot, then the Owner shall promptly remove any remaining improvements damaged or destroyed by such taking or conveyance and shall leave the Lot in a clean, orderly, safe, and sightly condition. In addition, if the size or configuration of the Lot remaining after such taking or conveyance is insufficient to permit the restoration of the remaining improvements thereon or therein to their condition prior to such taking or conveyance in compliance with all applicable standards, restrictions, and provisions of this Declaration and all applicable zoning, subdivision, building, and other governmental regulations, then the Owner, after removing all remaining improvements and placing the Lot in a clean, orderly, safe, and sightly condition, may deed the remaining portion of the Lot to the Association as a part of the Common Property. Upon the conveyance by an Owner of his remaining portion of a Lot, the Owner shall not be a Member.

(b) If any part of a Lot is taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof, and the Owner elects to restore the remainder of the Lot, then the Owner shall restore the remainder of the Lot in nearly as practicable to the same condition it was in prior to such taking or conveyance and in accordance with all applicable standard, restrictions, and provisions of this Declaration and all applicable zoning, subdivision, building, and other governmental regulations. The Owner shall commence the restoration within sixty (60) days after the taking or conveyance and shall proceed diligently in a good and workmanlike manner to completion.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be duly executed as provided in the acknowledgment set forth hereinafter but to be effective as of December 28, 2005.

GBR REALTY, LTD., a Texas limited partnership
BY: Its two General Partners

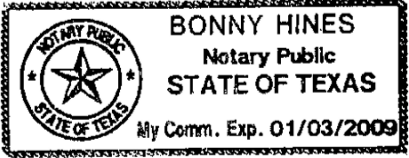
STEVE HAWKINS CUSTOM HOMES, LTD., a
Texas limited partnership
BY: SJ SHCH, LLC, General Partner

BY: [Signature]
Steve Hawkins, President

SJ SHCH, LLC
BY: [Signature]
Steve Hawkins, President

THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

The foregoing instrument was acknowledged before me on the 22 day of December 2005, by Steve Hawkins, President of SJ SHCH, LLC, a Texas limited liability company, on behalf of said company, General Partner of STEVE HAWKINS CUSTOM HOMES, LTD., a Texas limited liability company, on behalf of said company, General Partner of GBR REALTY, LTD., a Texas limited partnership.



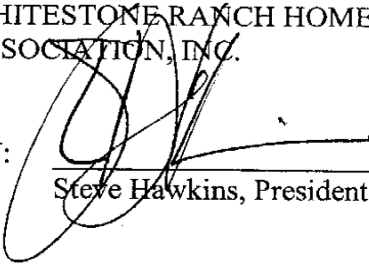
Bonny Hines
NOTARY PUBLIC, STATE OF TEXAS
PRINTED NAME OF NOTARY

MY COMMISSION EXPIRES:

The Association, by the execution hereof, acknowledges and agrees that the Association is hereby bound by all of the Association's obligations under this Declaration of Covenants, Restrictions and Easements.

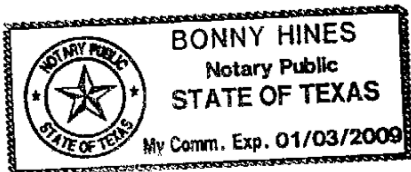
IN WITNESS WHEREOF, the Association, acting through its duly authorized officer, has caused this Declaration to be executed this 22 day of December, 2005.

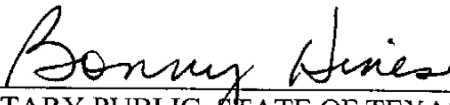
WHITESTONE RANCH HOMEOWNERS
ASSOCIATION, INC.

BY: 
Steve Hawkins, President

THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

The foregoing instrument was acknowledged before me on the 22 day of December 2005, by Steve Hawkins, President of WHITESTONE RANCH HOMEOWNERS ASSOCIATION, INC., a Texas non-profit corporation, on behalf of said corporation.




NOTARY PUBLIC, STATE OF TEXAS
PRINTED NAME OF NOTARY

MY COMMISSION EXPIRES:

AFTER RECORDING RETURN TO:

LandAmerica American Title Company
2900 S. Hulen, Suite 50
Fort Worth, Texas 76109



LANDAMERICA AMERICAN TITLE COMPANY
2900 S. HULEN, SUITE 50

FT WORTH TX 76109

Submitter: CITY OF BENBROOK

SUZANNE HENDERSON
TARRANT COUNTY CLERK
TARRANT COUNTY COURTHOUSE
100 WEST WEATHERFORD
FORT WORTH, TX 76196-0401

DO NOT DESTROY
WARNING - THIS IS PART OF THE OFFICIAL RECORD.

Filed For Registration: 12/28/2005 11:47 AM
Instrument #: D205383787
A 46 PGS \$192.00

By: _____

LS



D205383787

ANY PROVISION WHICH RESTRICTS THE SALE, RENTAL OR USE
OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR
RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.