

**BRIARWOOD SUBDIVISION
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

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**BRIARWOOD SUBDIVISION
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

THE STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

WITNESSETH

WHEREAS, Briarwood Subdivision, L.P., a Texas limited partnership (hereinafter called "Declarant") is the owner of BRIARWOOD SUBDIVISION, located in The City of Georgetown, Williamson County, Texas, Briarwood Subdivision, Section Four, a 22.01 acre subdivision situated in the David Wright Survey, Abstract No. 13, as described in the Final Plat, recorded August 25, 2006, in Cabinet CC, Slides 121 and 122, Plat Records, Williamson County, Texas (the "Property");

WHEREAS, the purpose of this instrument is to guard against the erection of poorly designed or proportioned structures and the use of unsuitable materials, to encourage and secure the erection of attractive improvements which are harmonious with their sites and in general, to enhance the economic value of the Property; and

WHEREAS, Declarant desires to create and carry out a uniform plan for the improvement, development and sale of the Property for the benefit of the present and future owners of the Property, and, in furtherance thereof, Declarant hereby adopts and establishes the following declaration of covenants, conditions, and restrictions to apply uniformly to ownership, encumbrance, lease, use, occupancy, enjoyment and conveyance of the Property.

NOW, THEREFORE, it is hereby declared that all of the Property shall be owned, encumbered, leased, used, occupied, enjoyed, and conveyed subject to the following conditions and restrictions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and shall be binding on all parties having the right, title or interest in or to the Property or any part thereof, their heirs, administrators, legal representatives, successors and assigns, and shall inure to the benefit of the owner thereof.

**ARTICLE I
DEFINITIONS**

Unless the context otherwise specifies or requires, the following words or phrases when used in this declaration shall have the meanings hereinafter specified:

1.1 Additional Property. The "Additional Property" shall be defined as any property adjoining or in the vicinity of the Property which is owned by Declarant that may become desirable to annex into this Declaration. It is contemplated that the Subdivision shall contain a total of four (4) phases of Lots. Declarant, upon recordation of a final plat for a phase of the Subdivision, shall annex such phase into this Declaration. It is Declarant's intent that the Property and the Additional Property shall constitute the entire Subdivision. Notwithstanding the foregoing, Declarant shall have no affirmative obligation to annex any Additional Property.

1.2 Annexation. "Annexation" shall mean the process by which the Additional Property shall be made subject hereto pursuant to Article 8.4 hereof.

1.3 Architectural Committee. "Architectural Committee" shall mean the committee created pursuant to this Declaration as provided in Article 4 hereof.

1.4 Certificate of Formation. "Certificate of Formation" shall mean the Certificate of Formation of the Association, entitled "Articles of Association", which have been or shall be filed in the office of the Secretary of State of the State of Texas, as the Certificate of Formation may from time to time be amended.

1.5 Assessment(s). "Assessment(s)" shall mean assessment(s) levied by the Association and includes both regular and special assessment(s) as provided in Article 6 hereof.

1.6 Association. "Association" shall mean Briarwood Subdivision Homeowners' Association, Inc., a Texas non-profit corporation.

1.7 Beneficiary. "Beneficiary" shall mean a mortgagee or a beneficiary under a deed of trust.

1.8 Board. "Board" shall mean the Board of Directors of the Association.

1.9 Building. "Building" shall mean a structure, including a residence, having a roof supported by columns or walls for the shelter, support or enclosure of person or property.

1.10 Bylaws. "Bylaws" shall mean the Bylaws of the Association which may be adopted by the Board, as the Bylaws may be amended from time to time.

1.11 Common Areas. "Common Areas" shall mean (i) Lots in the Subdivision designated as such on the final plat of the Subdivision, (ii) any Lot which may be designated as

such by Declarant in an amendment or amendments hereto, and (iii) all joint use access easements shown on the recorded plats of the Subdivision.

1.12 Declarant. "Declarant" shall mean Briarwood Subdivision, L.P., and its duly authorized representatives and successors or assigns; provided, however, any assignment of the rights of Declarant must be expressly set forth in a written instrument recorded in the Official Public Records of Williamson County, Texas. The mere conveyance of a portion of the Property without such a written, recorded assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of the Declarant hereunder.

1.13 Declaration. "Declaration" shall mean this instrument, as this instrument may from time to time be amended or supplemented.

1.14 HUD. "HUD" shall mean and refer to the Department of Housing and Urban Development.

1.15 Improvement. "Improvement" shall mean every structure and all appurtenances thereto of every type and kind, including but not limited to Buildings, outbuildings, storage sheds, patios, tennis courts, swimming pools, garages, storage buildings, playscapes, treehouses, swing sets, fences, screening walls, retaining walls, stairs, steps, porches, mailboxes, walkways, driveways, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment, exterior lighting fixtures and equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennae, aeriels, satellite dishes, wind generators, solar collectors, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, and other utilities.

1.16 Lot(s). "Lot" or "Lots" shall mean the lot or lots of land within the Subdivision as established on the plat or plats for each section of the Subdivision.

1.17 Manager. "Manager" shall mean the person, firm or corporation, if any, employed by the Association pursuant to this Declaration and delegated the duties, powers, and functions of the Association as provided in Article 5.5(c) hereof.

1.18 Member. "Member" shall mean any person or entity who is a member of the Association.

1.19 Mortgage. "Mortgage" shall mean any mortgage or deed of trust covering any portion of the property, including any Lot or Lots, voluntarily given by an Owner to secure the payment of a debt.

1.20 Owner(s). "Owner(s)" shall mean any person or entity, including the Declarant, holding record legal title to a fee simple interest in any portion of the Property, including any Lot or Lots, but shall not include any beneficiary whose sole interest in the Property or a portion thereof is derived from a Mortgage.

1.21 Plans and Specifications. "Plans and Specifications" shall mean any and all documents designed to guide or control the construction, alteration or removal of any Improvement including but not limited to those indicating location, size, shape, configuration, materials including roofing materials, site plans, excavation plans, grading plans, foundation plans, drainage plans, landscaping plans, fencing plans, screening plans, elevation drawings, floor plans, exterior lighting plans, specifications on all building products, and construction techniques, samples of exterior colors and materials, plans for utility services, and all other documentation or information relevant to such construction, alteration or removal.

1.22 Subdivision. "Subdivision" shall mean Briarwood Subdivision, Section Four, a 22.01 acre subdivision situated in the David Wright Survey, Abstract No. 13, as described in the Final Plat, recorded August 25, 2006, in Cabinet CC, Slides 121 and 122, Plat Records, Williamson County, Texas. The Additional Property, upon recordation of a final plat thereof by Declarant, shall be included in this definition of Subdivision.

1.23 Supplemental Declaration. "Supplemental Declaration" shall mean the instrument by which the Additional Property or a portion of the Additional Property may be included in the Property covered by this Declaration.

1.24 VA. "VA" shall mean and refer to the Veteran's Administration.

ARTICLE 2 RESTRICTIONS

All homes sold within the Briarwood Subdivision, Section Four, will require the homeowner to live in the home for at least the minimum of (2) years.

Except for the Common Areas, all of the Property shall be owned, encumbered, leased, used, occupied, enjoyed and conveyed subject to the following limitations and restrictions:

2.1 Residential Use: Construction, Alteration or Removal of Improvements.

(a) All Lots shall be improved and used solely for single family residential use and accessory uses, including, without limitation, a garage, fencing and such other improvements as are necessary or customarily incident to residential use. No manufacturing, trade, business, commerce, industry, profession or other occupation whatsoever may be conducted or carried on in any portion of the Property or in any improvement thereon. Notwithstanding the foregoing, Owners may work from home provided that there is no storage of inventory for sale, retail business conducted, or client and/or visitor meetings incidental to business conducted in any Building. No Improvement constructed on a Lot may be used as an apartment house, flat, lodging house or hotel, but such improvements may be leased for single-family residential purposes for a minimum term of six (6) months.

(b) No Improvement may be constructed, altered or removed upon or for any of the Property without the prior written approval of the Architectural Committee. Any action other than normal maintenance, which in any way alters the exterior appearance of any Improvement, including, without limitation, its color, or which involves the removal of any

Improvement or the alteration of the landscaping on a Lot, shall be performed only with the prior approval of the Architectural Committee.

(c) No Improvement shall be allowed on any Lot that is of such size or Architectural design or that involves the use of such landscaping, color schemes, exterior finishes and materials and similar features as to be incompatible with the residential development in the Subdivision and the surrounding area.

2.2 Building Height. No Improvement greater than thirty-five feet (35') in height may be constructed on any Lot. For purposes of this Article 2.2, Height means the vertical distance from the "foyer" or "entry level floor" of a Building to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable on a pitched or hipped roof, or if none of the preceding, then to the highest point of the Improvement.

2.3 Building Materials; Residence Size; Mailboxes.

(a) All single family residences shall be of recognized standard construction quality, and all first floor exterior walls shall be constructed of at least seventy-five percent (75%) masonry, (exclusive of areas above the roof line, recessed porches, eaves, soffits, windows, gables and trim work) or other material specifically approved in writing by the Architectural Committee. The term "masonry" includes brick, stone and/or stucco, but does not include hardy-plank or similar product. Second floor exterior walls, being walls above eight feet (8') from the top of the slab (where applicable) shall be constructed of masonry, hardy-plank or similar product, or other material specifically approved in writing by the Architectural Committee. Roofing materials must be of high grade and quality and consistent with the exterior design, color and appearance of other Improvements within the Property and shall be colored "weathered wood" or equivalent. At a minimum, twenty (20) year guaranteed roofing material shall be required. All windows shall contain clear or slightly tinted, non-reflective glass.

(b) Each single-family residence constructed on a Lot shall contain not less than one thousand four hundred (1,400) square feet of enclosed living space, exclusive of porches and patios (open or covered), decks and garages. The first floor of any two-story residence constructed on any Lot shall contain at least eight hundred (800) square feet of total living area.

(c) If a collective mailbox arrangement is not utilized for all of the Subdivision, any housing for individual mailboxes constructed in front of a residence shall be architecturally integrated with the residence, which such mailbox is to serve and shall be approved by the Architectural Committee prior to construction.

(d) Any Building located on a Lot, including but not limited to, outbuildings, storage sheds and storage buildings, but excluding the single family residence located on such Lot, shall not exceed one hundred fifty (150) square feet, and shall not exceed ten (10') feet in height. For purposes of this section "Height" shall be calculated by measuring the distance from the ground to the highest point on the Building. Any such Building shall be of the same

architectural design and constructed of the same materials and in the same color scheme as the residence located on the Lot. Written approval of any such Building shall be in the sole and absolute discretion of the Architectural Committee on a case by case basis, and approval may be withheld even if the proposed Building complies with all requirements and restrictions contained in this Declaration.

2.4 Governmental Requirements. All improvements and construction shall comply with all applicable governmental laws, ordinances and regulations.

2.5 Subdividing. No Lot shall be further divided or subdivided, nor may any easements or other interests therein less than the whole thereof be conveyed by an Owner without the prior written approval of the Architectural Committee; provided however that when Declarant is the Owner thereof Declarant may further divide and subdivide any Lot and convey an easement or other interest less than the whole all without the approval of the Architectural Committee.

2.6 Signs. Except for the permanent entrance signs for the Subdivision, no sign of any kind shall be displayed to the public view without the prior written approval of the Architectural Committee, except for signs which are part of Declarant's overall marketing plan for the Property. The Architectural Committee may permit signs of any type advertising portions of the Property for sale or lease and it may set standards for the same. An Owner may have one (1) sign no larger than two (2) feet by three (3) feet in dimension for the purpose of advertising the Owner's Lot for sale or lease. The Declarant, the Association, and their respective authorized representatives, shall be entitled to remove any unauthorized signs without notice to the Owner of the Lot on which the sign may be placed or located.

2.7 Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property or any portion thereof which is unsanitary, unsightly, offensive, or detrimental to any other property or to its occupants. Refuse, garbage and trash shall be kept at all times in covered containers and all such containers shall at all times be kept within an enclosed structure or appropriately screened from view of all adjacent property and public and private rights-of-way; provided however, garbage containers shall be permitted to be placed outside of enclosed structures and may be removed from screened areas a maximum of two (2) times each week, for no longer than twelve (12) hours each time, for garbage collection.

2.8 Noise; Nuisances. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or its occupants. No noxious or offensive activity shall be conducted on any portion of the Property. The Board, in its sole discretion, shall determine whether an action or activity constitutes a violation of this Article 2.8.

2.9 Condition and Repair of Improvements and Landscaping. All Improvements upon the Property shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner thereof. All windows in any Improvement on the Property shall have draperies, blinds or shutters installed by the resident or Owner thereof. Within sixty

(60) days of completion of construction on any Lot, all landscaping on such Lot shown on the Plans and Specifications for the Improvements on such Lot shall be completed and shall at all times thereafter be kept in neat and well groomed condition and appearance, with all trees, shrubs and plantings property pruned, yards regularly mowed, edged and raked and all areas kept free of trash, debris, weeds and overgrowth. Each Owner shall keep all trees, shrubs, grass, and plantings in such Owner's Lot or Lots free of disease and insects consistent with good horticultural practice. Without limiting the generality of the foregoing each Owner shall promptly treat trees on their Lots that show symptoms of life-threatening diseases in a manner consistent with good horticultural practice. The Board, in its sole discretion, shall determine whether the provisions of this Article 2.9 have been satisfied.

2.10 Hazardous Activities; Fertilizers, Pesticides and Herbicides.

(a) No activities shall be conducted or allowed to exist on any portion of the Property and no Improvements shall be constructed on the Property, which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, activities that are expressly prohibited include (1) mining, quarrying, drilling, boring, or exploring for removing water, oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate or earth, (2) the use or discharge of firecrackers or other fireworks within the Property, (3) the use or storage of gasoline, oil or any similar type of flammable liquids in other than closed tanks with capacities of five (5) gallons or less within an enclosed structure or permanently screened from view, provided, however, only such liquids and gases as are customarily used for residential purposes shall be allowed on the Property, (4) any activities which may be offensive or hazardous by reason of odor, fumes, dust, smoke, noise, vibration or pollution, or which are hazardous by reason of excessive danger, fire, or explosion, (5) hunting, trapping and the discharge of firearms including air rifles and pistols, (6) open fires in other than a contained barbecue unit for cooking purposes, while attended and in use, or within a safe and well designed interior or exterior fireplace, (7) the use of bows and arrows, crossbows, slingshots, darts or other projectile devices, or (8) the discharge or leakage of any type of hazardous or toxic chemical or material, such as oil, fertilizers, pesticides or herbicides, provided, however, only such materials as are customarily used for residential purposes shall be allowed on the Property.

(b) No fertilizers, pesticides or herbicides other than those generally available for consumer use and approved by an agency, such as the Food and Drug Administration, for the purpose intended shall be placed, used or stored on any Lot. All Owners using any such materials shall strictly comply with all instructions provided with such materials and shall take proper precautions placing, using and storing such materials so that such materials are contained at all times and do not result in the unnecessary discharge thereof into any water table or onto any other Lot.

2.11 Vehicles; Unsightly Articles; Temporary Structures.

(a) Passenger vehicles, boats on trailers, motorcycles and scooters owned or used by an Owner shall not be parked or left on any portion of the Property other than such Owner's garage or driveway for longer than twenty-four (24) hours at a time. No mobile homes, boats, busses, trucks (other than passenger vehicle trucks), boat trailers, graders, tractors or wagons shall be parked or placed on any such Lot at any time; provided, however, construction equipment may be left on a Lot during construction on such Lot, but shall be removed as soon as such equipment is no longer needed in such construction. No travel trailers or recreational vehicles shall be parked on or near any Lot so as to be visible from adjoining property or public or private rights-of-way for longer than forty-eight (48) hours at a time.

(b) No junk vehicles or equipment, spare vehicle or equipment parts or other article deemed to be unsightly by the Board shall be permitted to remain on any Lot so as to be visible from adjoining property or public or private rights-of-way. All garden maintenance equipment shall be kept at all times, except when in actual use in an enclosed structure or screened from view of adjoining property and public and private rights-of-way. No recreational equipment, including but not limited to swing sets, playscapes, skate boards, bicycles, skate board or bicycle ramps or badminton nets, shall be permitted in the front yard of any residence on the Property. Gardens shall be permitted for household use only and shall not be permitted in the front yards of residences. No repair or maintenance work shall be done on any garden maintenance equipment or on any vehicle (other than minor emergency repairs) except in an enclosed garage or other structure. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household materials shall be appropriately screened from view and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials or scrap or refuse of trash shall be kept, stored or allowed to accumulate on any portion of the Property except within an enclosed structure, or appropriately screened from view. Notwithstanding the foregoing, portable and permanent basketball goals shall be allowed in the front yard of a Lot, provided that such basketball goals shall be kept or installed behind the setback lines as shown on the final plat or plats of the Subdivision, and that when a portable basketball goal is not in use, such basketball goal shall be kept in the garage, side yard, back yard or as near to the wall of the residence fronting the street as practicable. Permanent basketball goals shall be maintained in a neat and orderly manner.

(c) No tent, shack, barn or other temporary improvement shall be placed upon any portion of the Property, provided, however, that temporary structures necessary for storage of tools and equipment and for office space for architects, builders and foremen during actual construction may be maintained with the prior written approval of the Architectural Committee, such approval to include the nature, size, duration and location of such structure.

2.12 Animals. No kennel or other facility for raising or boarding dogs or other animals for commercial purposes shall be kept on any Lot. Only the keeping of ordinary household pets such as dogs and cats, not to exceed two (2) each in number, is allowed; however, no breeding, raising or boarding of such pets is permitted on any Lot. No dog deemed dangerous as determined by the Board in its sole discretion may be kept on any Lot for any period of time, and

any such dog may be removed by the Board as necessary. All pets permitted by this Declaration to be kept on a Lot shall at all times be properly vaccinated and cared for. No poultry or livestock of any kind may be kept on any Lot for any period of time. All pets shall be kept on the Owner's Lot and shall not be allowed to roam loose, and Owners having pets shall keep their Lot and all other Lots free of offensive or unsanitary accumulations of waste from their pet.

2.13 Fences. Only six-foot (6') high wooden privacy fences shall be constructed unless otherwise approved by the Architectural Committee. Chain link and other open mesh, wire type fences may not be constructed or maintained on any Lot. The Architectural Committee may, in its discretion, prohibit the construction of any proposed fence, or specify the materials of which any proposed fence must be constructed, or require that any proposed fence be screened by vegetation or otherwise so as not to be visible from other portions of the Property. No fences may be constructed which will interfere with the water drainage within any drainage easements shown on the recorded plats of the Subdivision. All fences facing onto a street front shall be constructed with the smooth side (side with no vertical supports) facing the street.

2.14 Carports; Garages. No carports shall be erected or permitted to remain on any Lot. Each residence constructed on a Lot shall have attached to it an enclosed garage that shall be large enough to accommodate at least two (2) full size passenger automobiles. All garage doors shall be kept in the closed position when the Owner or occupant of the Lot is not using the garage for ingress and egress.

2.15 Underground Utility Lines. No utility lines or wires, including, but not limited to, wires or other devices for the communication or transmission of telephone, electric current or power or cable television, shall be erected, placed or maintained in or upon any Lot unless the same shall be contained in conduit or cables that are installed and maintained underground or that are concealed in, under or on Buildings; provided, however, that no provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of Improvements which have been previously approved in writing by the Architectural Committee. The installation method, including, but not limited to location type of installation equipment, trenching method and other aspects of installation for both temporary and permanent utility lines and wires shall be included in the Plans and Specifications for all Improvements.

2.16 Exterior Lighting. All exterior lighting on any Improvement must be approved by the Architectural Committee; provided, however, Christmas and other holiday lights shall be permitted without prior approval during the month of December each year, but must be removed by January 15 of the next. No lighting shall be permitted that constitutes a nuisance or hazard to any Owner or occupant of any Lot. The Board in its sole discretion shall determine whether the provisions of this Article 2.16 have been satisfied.

2.17 Landscaping. All front yards shall be fully sodded with grass and contain at least two (2) trees of at least one and one half (1 1/2) inches caliper prior to occupancy of any Building on any Lot.

2.18 General Restrictions.

(a) All Buildings constructed on the Property shall be built in place on the Lot.

(b) There shall be no interference with the established drainage patterns over any of the Property, except by Declarant, unless adequate provision is made for proper drainage and the prior written approval of the Architectural Committee is obtained.

(c) All Building foundations on slopes of fifteen percent (15%) or greater or on fill placed upon such slopes shall utilize design and construction practices certified by a registered professional engineer qualified to practice in such field and such design shall be delivered to the Architectural Committee with the Plans and Specifications.

(d) Once commenced, construction shall be diligently pursued to completion so that no construction is left in a partially completed condition any longer than reasonably necessary. All construction materials and debris shall be stored in receptacles during construction and promptly be cleared from each Lot upon completion of construction thereon.

2.19 Exclusions and Special Restrictions.

(a) The Common Areas shall be completely exempt from all of the restrictions set forth in this Article 2.

**ARTICLE 3
COMMON AREAS**

3.1 Title to Common Areas. It is contemplated that certain Lots which are part of the Common Areas shall be conveyed by Declarant to the appropriate governmental entity by deed or by dedication on the final recorded plat of the Subdivision.

3.2 Property Rights. Every Owner shall have a right and easement of enjoyment in and to the Common Areas which are not conveyed to a governmental entity (the "Retained Common Areas") (including the Improvements situated thereon, if any) which shall be appurtenant to and shall pass with title to each Lot, subject to the following provisions:

(a) The Association shall have the right to prescribe rules and regulations from time to time governing and restricting the use of the Retained Common Areas;

(b) The Association shall have the right to suspend the voting rights and right to use of the Retained Common Areas of an Owner for any period during which any Assessment against the Owner's Lot remains unpaid and for a reasonable period in response to any infraction of the Association's rules and regulations; and

(c) The Association shall have the right to take such steps as are reasonably necessary to protect the Retained Common Areas from foreclosure or forfeiture.

3.3 Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, its right of enjoyment to the Retained Common Areas to the Owner's tenants, invitees and guests and to succeeding Owners and their tenants, invitees and guests.

3.4 Title to Common Areas. Declarant may retain the legal title to the Retained Common Areas not conveyed to governmental entity until such time as in the sole discretion of Declarant the Association is able to maintain the same, at which time the Declarant will convey title to the Retained Common Areas to the Association. Until title to the Retained Common Areas has been conveyed to the Association by Declarant, Declarant shall be entitled to exercise all rights and privileges relating to such Retained Common Areas granted to the Association in this Declaration, other than the levying and collection of Assessments, which only the Association may do.

3.5 Maintenance of Common Areas Included in Regular Annual Assessment. The Association shall provided maintenance, replacement, repair and care for the Common Areas and Retained Common Areas, including landscaping and plants thereon. By way of illustration, such improvements may include, but not necessarily be limited to, fences, walls, lighting and other facilities considered necessary for the overall illumination or security of the Property. The maintenance provided for in this Article shall be considered as services due each Member in consideration of the Assessments levied against the Member's Lot. However, in the event that the need for any such maintenance, replacement or repair performed by the Association, in the judgment of the Board, is caused through the willful or negligent act of the Member or the Member's family, guests, or invitees, the cost of such maintenance, replacement or repair shall become a Special Assessment to which the Member's Lot is subject.

3.6 Mortgage or Conveyance of Retained Common Areas. The Retained Common Areas may not be mortgaged or conveyed (other than to the Association) without the approval of at least 2/3rds of the Owners (excluding Declarant).

ARTICLE 4 ARCHITECTURAL COMMITTEE

4.1 Membership and Duties of Architectural Committee.

(a) The Architectural Committee shall be composed of not more than three (3) persons. The following persons are hereby designated as the initial members of the Architectural Committee: Joey L. Willhite, Laurie Field, and Marla Coward.

(b) The Architectural Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration and perform such other duties assigned to it by this Declaration or as from time to time shall be assigned to it by the

Board. The Architectural Committee shall review Plans and Specifications submitted for its review and such other information as it may require. The Architectural Committee shall have the authority to disapprove any proposed Improvement based upon the restrictions set forth herein and the decision of the Architectural Committee shall be final and binding so long as it is made in good faith. The Architectural Committee shall not be responsible for inspecting any proposed Improvement, nor shall its approval of any Plans or Specifications be deemed approval of any Improvement as to structural safety, engineering soundness, or conformance with any building or other codes.

4.2 Term. Each member of the Architectural Committee shall hold office for two (2) calendar years or until such time as he has resigned or has been removed and his successor has been appointed.

4.3 Declarant's Rights of Appointment. Declarant, its successors and assigns, shall have the right to appoint and remove all members of the Architectural Committee. Declarant may delegate this right to the Board by written instrument. Thereafter, the Board shall have the right to appoint and remove all members of the Architectural Committee.

4.4 Review of Construction, Alteration or Removal of Improvements.

(a) Whenever in this Declaration the approval of the Architectural Committee is required, the Architectural Committee shall have the right to consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts, materials, construction samples and other information which it considers, in its sole discretion to be relevant. Prior to commencement of any construction, alteration or removal of any Improvement on any Lot, the Plans and Specifications therefore shall be submitted to the Architectural Committee, and construction, alteration or removal thereof may not commence unless and until the Architectural Committee has approved such Plans and Specifications in writing. All such construction, alteration or removal shall conform to the approved Plans and Specifications.

(b) An Owner, other than Declarant, proposing to construct, alter or remove an Improvement on any Lot, shall submit an application to the Architectural Committee together with two (2) sets of the Plans and Specifications for such construction, alteration or removal and the application fee described herein below. Within thirty (30) days after receipt by the Architectural Committee of such Plans and Specifications, it shall act on the Plans and Specifications as follows:

(i) The Architectural Committee may request in writing that the Owner submit to it such additional materials, construction samples and information that the Architectural Committee considers relevant in reviewing the Plans and Specifications for compliance with this Declaration. Until receipt by the Architectural Committee of all information requested by it, it may postpone review of such Plans and Specifications. Upon receipt of all such information requested by it, the Architectural Committee shall act upon such Plans and Specifications within thirty (30) days. The written request of the Architectural

Committee for additional information shall be binding upon the Architectural Committee as a complete list of such information if the additional information is received by it within sixty (60) days of its request. The Architectural Committee may request the additional information described above herein at any time it receives revised Plans and Specifications; provided, however, such request shall be limited to the additional or revised items therein and not to items previously reviewed by the Architectural Committee unless such items are affected by such revision.

(ii) If the Architectural Committee approves such Plans and Specifications, it shall mark both sets of the Plans and Specifications "Approved" with the date thereof, and retain one set for its records and return one set to the Owner. The Owner must commence construction of the Improvements shown in approved Plans and Specifications within ninety (90) days of the Architectural Committee's approval thereof or such approval shall lapse. Upon written request of an Owner, the Architectural Committee shall grant up to two (2) thirty (30) day extensions of such approval.

(iii) If the Architectural Committee disapproves such Plans and Specifications, it shall mark both sets of the Plans and Specifications "Disapproved" with the date thereof, and retain one set for its records and return one set to the Owner, with a written statement of all of the items that were found not to comply with the Declaration. Thereafter, the Owner shall submit to the Architectural Committee two (2) revised sets of Plans and Specifications, with notations thereon sufficient to identify the revised portions, and the Architectural Committee shall act on such revised Plans and Specifications within thirty (30) days after receipt by it of such revised Plans and Specifications. The written statement on non-complying items shall be binding upon the Architectural Committee as a complete list of such items if revised Plans and Specifications with changes conforming to such statement are received by it within sixty (60) days of the date of such statement. The Architectural Committee may disapprove revised Plans and Specifications submitted to it according to the provisions hereof; provided, however, the Architectural Committee shall only disapprove the revised Plans and Specifications based on the revised or additional items therein and not based on items previously reviewed by the Architectural Committee.

(iv) If the Architectural Committee fails to act on any Plans and Specifications submitted to it within forty-five (45) days after receipt by the Architectural Committee of all information requested by it in connection with such Plans and Specifications, approval of the matters submitted to it shall be presumed.

(c) The Board shall establish and may thereafter amend from time to time an application fee that shall be paid in cash by each Owner at the time of submittal of any application and Plans and Specifications to the Architectural Committee. Such fee may be in

different amounts based upon the activity proposed in such application. Such fee shall not exceed the reasonable costs and expenses of the Board and the Architectural Committee for the processing and review of Plans and Specifications.

4.5 Actions of the Architectural Committee. The Architectural Committee may by resolution unanimously adopted in writing, designate one (1) or two (2) of its members or an agent acting on its behalf to take any action or perform any duties for and on behalf of the Architectural Committee. In absence of such designation, the vote of a majority of all of the members of the Architectural Committee taken at a meeting shall constitute an act of the Architectural Committee. In the event that the members of the Architectural Committee cannot agree by majority vote on any matter submitted to them, the matter may be raised at any meeting of the Members of the Association and decided by a majority of those present, provided that a quorum is present.

4.6 No Waiver of Future Approvals. The approval or consent of the Architectural Committee to any Plans or Specifications for any work done or proposed in connection with any other matter requiring the approval or consent of the Architectural Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans and Specifications, or other matter whatsoever, subsequently or additionally submitted for approval or consent by the same or a different Owner.

4.7 Waiver. The Architectural Committee may grant such waivers of any of the restrictions contained in this Declaration as it considers appropriate based upon the quality and design of a proposed Improvement; provided, however, it shall not grant a waiver of the restriction contained in Articles 2.1, 2.2, 2.5, and 2.10 hereof.

4.8 Nonconforming or Unapproved Improvements. The Architectural Committee at its option may inspect all work in progress to ensure compliance with approved Plans and Specifications. The Architectural Committee may require any Owner to restore such Owner's Lot to the condition existing prior to construction, alteration or removal of any improvement thereon, including, without limitation, the demolition and removal of any unapproved or nonconforming Improvement, if such improvement was constructed or altered in violation of this Article 4. In addition, the Architectural Committee may, but has no obligation to, cause such restoration, demolition, and removal of any such Improvement, and levy the amount of the cost thereof as a special individual assessment against the Lot upon which such unapproved or nonconforming Improvement was constructed or altered.

4.9 Nonliability of Architectural Committee and Board Members. Notwithstanding anything to the contrary in this Declaration, neither the Architectural Committee nor the members thereof, nor the Board nor the members thereof, shall be liable to any Owner or any other third party due to the construction of any Improvement within the Property or the creation thereby of an obstruction to the view from such Owner's Lot or Lots.

4.10 Address. Plans and Specifications shall be submitted to the Briarwood Subdivision Architectural Committee in care of Briarwood Subdivision, P.O. Box 3000

#184, Georgetown, Texas 78627, Attn: Architectural Committee, or such other address as may be designated from time to time in writing by the Architectural Committee.

ARTICLE 5
BRIARWOOD SUBDIVISION HOMEOWNERS' ASSOCIATION, INC.

5.1 Organization. The Association is a non-profit corporation created by Declarant for the purposes, and charged with the duties and vested with the powers, prescribed by law and set forth in its Certificate of Formation and Bylaws or in this Declaration. Neither the Certificate of Formation nor Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

5.2 Membership. Any person or entity upon becoming an Owner shall automatically become a Member of the Association. Membership shall be appurtenant to and shall run with the property interest which qualifies the Owner thereof for membership, and membership may not be severed from, or in any way transferred, pledged, mortgaged, or alienated except together with the title to such property interest.

5.3 Voting Rights. The Association shall have one or more classes of voting membership as further described in the Bylaws of the Association. All voting rights shall be subject to the provisions and restrictions set forth in the Bylaws. Upon written request by an Owner of a Lot, the Association shall provide a true, complete copy and correct copy of the Bylaws certified by an officer of the Association to such Owner. Each Owner shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. Notwithstanding the above, Declarant shall be entitled to three (3) votes for each Lot owned.

5.4 Duties of the Association. Subject to and in accordance with this Declaration, the Association, acting through the Board, shall have, and perform each of the following duties:

(a) To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to the Common Areas (excluding Common Areas owned by a governmental entity) and any other property owned by or leased to the Association, to the extent that such taxes and assessments are not levied directly upon the Members. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.

(b) To obtain and maintain in effect policies of insurance which, in the Board's judgment, are reasonably necessary or appropriate to carry out the Association functions.

(c) To make, establish and promulgate, and in its discretion to amend or repeal and re-enact, such Association Bylaws, not in conflict with this Declaration, as it deems proper covering any and all aspects of its functions.

- (d) To keep books and records of the Association's affairs.
- (e) To maintain, repair, replace, clean, inspect and protect the Common Areas including all water quality control equipment and joint use access easements as depicted on the recorded plats of the Subdivision, and security gates, landscaping, lighting, signage and other improvements located therein or thereon.
- (f) To maintain, repair, replace and protect the entrance sign to the Subdivision and the related improvements thereon.
- (g) To pay all utilities provided to the Common Areas and/or the entrance to the Subdivision
- (h) To carry out and enforce all duties of the Association set forth in this Declaration.
- (i) To pay all expenses incurred by the Architectural Committee and/or the Association.
- (j) To collect all Association dues and related fees as provided herein.

5.5 Powers and Authority of the Association. The Association shall have the powers of a Texas non-profit corporation, subject only to such limitations upon the exercise of such power as are expressly set forth in this Declaration. It shall further have the power to do and perform any and all acts that may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration. Without in any way limiting the generality of the two preceding sentences, the Association and the Board acting on behalf of the Association, shall have the power and authority at all times as follows:

- (a) To levy Assessments as provided in Article 6 below.
- (b) To enter at any time in an emergency, or in a non-emergency after forty-eight (48) hours written notice, without being liable to any Owner, upon any Lot or into any Improvement thereon, for the purpose of enforcing this Declaration or for the purpose of maintaining or repairing any area, Improvement or other facility to conform to this Declaration, and the expense incurred by the Association in connection with the entry upon any Lot or Improvement and maintenance and repair work conducted thereon shall be a personal obligation of the Owner of the Lot entered upon, shall be secured immediately by a lien upon the Lot entered upon and the Improvements thereon, and shall be enforced in the same manner and to the same extent as provided in Article 6 hereof for regular and special Assessments. The Association shall have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction otherwise, or to restrain and enjoin, any breach or threatened breach of this Declaration. The Association is also authorized to

settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce this Declaration; provided, however, that the Board shall never be authorized to expend any Association funds for the purpose of bringing suit against Declarant, its agents, contractors, successors and assigns.

(c) To retain and pay for the services of a Manager to manage and operate the Association, to the extent deemed advisable, by the Board. To the extent permitted by law, the Association and the Board may delegate any duties, powers and functions to the Manager. The Members hereby release the Association and the members of the Board from liability for any omission or improper exercise by the Manager of any such duty, power or function so delegated.

(d) To retain and pay for legal and accounting services necessary or proper in the operation of the Association.

(e) To obtain and pay for any other property and services, and to pay any other taxes or assessments which the Association or the Board is required to secure or to pay for pursuant to applicable law or the terms of this Declaration.

(f) To enter into contracts with Declarant and with other persons on such terms and provisions as the Board shall determine, and to acquire and own, and to dispose of all manner of real and personal property, whether by grant, lease, gift or otherwise.

(g) To establish rules as necessary, including, but not limited to, rules governing the use of the Common Area, and fine schedules (collectively, the "Rules").

5.6 Power to Indemnify and to Purchase Indemnity Insurance. The Association shall indemnify and may reimburse and/or advance expenses and/or purchase and maintain insurance or any other arrangement on behalf of any person who is or was a director or officer of the Association against any liability asserted against such person and incurred by such person in such a capacity or arising out of his status as such a person to the maximum extent permitted by Article 1396 §2.2A of the Texas Non-Profit Corporation Act, as such Act may from time to time be amended (without regard, however to Section Q of such Article with respect to officers of the Association who are not directors of the Association), and as permitted by any other law. Further the Association may indemnify and/or reimburse and/or advance expenses and/or purchase and maintain insurance or any other arrangement on behalf of any person, other than any person who is Director of the Association, who is or was an officer, employee or agent of the Association, or is or was serving at the request of the Association as a direct, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another corporation, partnership, joint venture, sole proprietorship, trustee, employee benefit plan or other enterprise, against any liability asserted against such person and incurred by such person, in such a capacity or arising out of his status as such a person, to such extent (or, in the case of officers of the Association, to such further extent), consistent with applicable law, as the Board may from time to time determine. The provisions of this Article 5.6 shall not be deemed exclusive of any other rights to which any such person may be entitled under any Bylaw, agreement, insurance policy, vote of Members or otherwise.

**ARTICLE 6
ASSESSMENTS**

6.1 Assessments.

(a) The Association may from time to time levy Assessments against each Lot, whether or not such Lot is improved. The amount of Assessments shall be equal and uniform among all Lots; provided, however, that no Assessments shall ever be levied hereunder against any Lot owned by Declarant or any Common Areas.

(b) Where an Owner's obligation to pay Assessments first arises after the commencement of the year or other period for which an Assessment was levied, such Assessment shall be in a prorated amount proportionate to the fraction of the year or other period remaining after said date.

(c) Each purchaser of any Lot, by acceptance of a deed therefore, shall be deemed to covenant to pay to the Association each Assessment levied hereunder against such Lot, whether or not such covenant shall be expressed in any such deed or other conveyance. Each unpaid Assessment together with interest thereon and costs and expenses of collection thereof, including, without limitation, reasonable attorneys' fees, as hereinafter provided, shall be the personal obligation and debt of the Owner of the Lot against which the Assessment was levied.

(d) The obligation to pay Assessments levied by the Association hereunder is part of the purchase price of each Lot when sold to an Owner. An express vendor's lien is hereby retained to secure the payment of each and every Assessment levied hereunder, and each such vendor's lien to be superior and paramount to any homestead or other exemption provided by law. The Association may enforce the payment of Assessments in accordance with the provisions of this Article 6.

(e) The Assessments shall be used exclusively for the purpose of promoting the comfort, health, safety and welfare of the Owners, the maintenance and improvement of the Lots, and for carrying out the purposes of the Association as stated herein or as otherwise provided in the Certificate of Formation of the Association.

6.2 Regular Annual Assessments. Prior to the beginning of each fiscal year for the Association, the Board shall estimate the expenses to be incurred by the Association during such year in performing its functions under this Declaration, including a reasonable provision for contingencies and appropriate replacement reserves, less any expected income and any surplus from the prior year's fund. The Association shall then levy assessments sufficient to pay such estimated net expenses as herein provided, and the amount of such Assessments as determined by the Board shall be final and binding so long as such determination is made in good faith. All such regular Assessments shall be due and payable to the Association on January 1st of the fiscal year for the Association for which such Assessments are payable, or during such fiscal year in equal quarterly installments on or before the first day of each calendar quarter, or in such other

manner as the Board may designate in its sole and absolute discretion. Provided, however, that Assessments levied against each Owner may not be increased more than fifteen percent (15%) from the preceding year's Assessments, and in no event shall the Assessments levied against each Owner be increased by more than Twenty-Five and No/100 Dollars (\$25.00) from the preceding year's Assessments. Notwithstanding the above, the initial regular Assessment beginning as of January 1, 2008, shall be in the amount of One Hundred Twenty and No/100 Dollars (\$120.00).

6.3 Special Assessments. In addition to the regular Assessments provided for above, the Association may levy special Assessments whenever in the Board's sole opinion such special Assessments are necessary to enable the Board to carry out the functions of the Association under this Declaration. The amount of any special Assessments shall be determined by the Board in its sole discretion and shall be due and payable in any manner as the Board may designate.

6.4 Owner's Personal Obligation for Payment of Assessments. Each regular and special Assessment provided for herein shall be the personal and individual debt of the Owner of the Lot against which such Assessment was levied. No Owner, other than Declarant, may exempt himself from personal liability for such Assessments. In the event of default in the payment of any Assessment, the Owner of the Lot against which such Assessment was levied shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect of the amount of the Assessment from the due date thereof (or if there is no such highest rate, then at the rate of two percent [2%] per month) together with all costs and expenses of collection, including, without limitation, reasonable attorney's fees.

6.5 Assessment Lien and Foreclosure.

(a) The payment of each unpaid Assessment levied hereunder together with interest thereon as provided in Article 6.4 hereof and the costs and expenses of collection including reasonable attorneys' fees, as herein provided, is secured by a continuing lien and charge on the Lot against which such Assessment was levied. Such lien for payment of Assessments shall bind such Lot in the hands of the Owner, and such Owner's heirs, devisees, personal representatives, successors or assigns, and shall be superior to all other liens and charges against such Lot, except only for tax liens, and all sums unpaid on any first lien Mortgage securing sums borrowed for the purchase or improvement of such Lot, provided such Mortgage was recorded in the Official Public Records of Williamson County, Texas, before such Assessment was due. The Association shall have the power, in the Board's sole and absolute discretion, to subordinate the aforesaid lien for payment of Assessments to any other lien. Any such subordination shall be signed by an officer of the Association and recorded in the Official Public Records of Williamson County, Texas. Upon the written request of any Beneficiary holding a lien on any Lot that is holding a lien on any Lot that is superior to the lien for payment of Assessments as provided herein, the Association shall report to said Beneficiary the amount of any Assessments levied against such Lot remaining unpaid for a period of more than thirty (30) days after the same are due, provided, however, that no such Beneficiary shall have a duty to collect any Assessments. Failure to pay such Assessments shall not constitute a default under a first lien Mortgage.

(b) To evidence the aforesaid lien for payment of Assessments, the Association may prepare a written notice of assessment lien setting forth the amount of the unpaid indebtedness, a description of the Lot encumbered by the lien and the name of the Owner of such Lot. Such notice shall be signed by one of the officers of the Association and shall be recorded in the Official Public Records of Williamson County, Texas. If the aforesaid lien for payment of such Assessments becomes delinquent, the Association may enforce such lien by the foreclosure sale of the defaulting Owner's Lot in like manner as a foreclosure of a mortgage or contractual lien on real property as provided in Section 51.002 of the Texas Property Code, as the same may be amended or modified, or the Association may institute suit against the Owner personally obligated to pay the Assessment for monetary damages and/or for the judicial foreclosure of the aforesaid lien. The Owner of the affected Lot shall be required to pay all costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by the Association in connection with any foreclosure proceeding, whether judicial or non-judicial. The Association shall have the power to bid on any Lot at any foreclosure or other legal sale and to acquire, hold lease, mortgage, convey or otherwise deal with the same.

(c) The liens for payment of Assessments provided for herein shall not be affected or extinguished by the sale or transfer of any lot, whether by judicial or non-judicial foreclosure sale or otherwise; provide, however, that in the event of foreclosure of any first lien Mortgage superior to the lien for the delinquent Assessment, the lien for the delinquent Assessment will be extinguished and the delinquent Assessment shall be paid out of the proceeds of such foreclosure sale only to the extent that funds are available after the satisfaction of the first lien Mortgage. The extinguishments of any lien for payment of Assessments as herein provided will not relieve any Owner from the obligation to pay Assessments subsequently becoming due and payable.

6.6 Assessment Upon Transfer. The Association shall collect an Assessment of Two Hundred Fifty and No/100 Dollars (\$250.00) per Lot from each purchaser of a Lot at the time of each closing of such Lot. Such Assessment shall be due and payable on each Lot each time ownership of such Lot is transferred, except at the time a Lot is initially transferred by Declarant to an Owner.

ARTICLE 7 FINES

7.1 Fines. The Board may assess fines against an Owner for violations of the restrictions or standards of conduct contained in this Declaration, the Bylaws or the Rules, committed by an Owner, an occupant of the Owner's dwelling, or the Owner or occupant's family, guests, employees, contractors, agents, tenants or invitees. Each day of violation may be considered a separate violation if the violation continues after written notice to the Owner.

7.2 Damage Charges. The Board may assess damage charges against an Owner for pecuniary loss to the Association from property damage or destruction of the Common Area,

common elements or common facilities by the Owner or the Owner's family, guests, agents, occupants or tenants.

7.3 Notices and Schedule of Fines. The Association manager shall have the authority to send notices to alleged violators informing them of the violations and asking them to comply with the Declaration, Bylaws and/or Rules and/or informing them of probable fines or damage assessments. The Board may from time to time adopt a schedule of fines for minor or recurring violations, but the Board may vary any fine depending on the special circumstances of each case.

7.4 Procedure. The procedure for assessment of fines and damage charges shall be as follows:

(a) The Association, acting through an officer, director, Board member or agent, must give the Owner certified mail, return receipt requested, notice of the fine or damage charge;

(b) The notice of the fine or damage charge must describe the violation or damage;

(c) The notice of the fine or damage charge must state the amount of the fine or damage charge;

(d) The notice of a fine or damage charge must state that the Owner may, no later than thirty (30) days after receipt of the notice, request a hearing before the Board;

(e) The notice of a fine or damage charge must allow the Owner a reasonable time, by a specified date, to cure the violation and avoid the fine unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six (6) months. A reasonable time to cure is not necessary in a notice of damage charge.

7.5 Date Due. Fine and/or damage charges are due immediately after the expiration of the 30-day period for requesting a hearing; or if a hearing is requested, such fines or damage charges shall be due immediately after the Board's decision at such hearing, assuming that a fine or damage charge of some amount is confirmed by the Board at such hearing.

7.6 Minimum Fine. The minimum fine for each violation shall be \$25.00. Fines may be assessed for each day of violation.

7.7 Amendment of Procedure. The Board may amend this fining procedure by Rule as necessary to comply with state or local law.

**ARTICLE 8
MISCELLANEOUS**

8.1 Term. This Declaration, including all of the covenants, conditions and restrictions hereof, shall continue in force and effect until January 1, 2050, unless amended as herein provided. After January 1, 2050, this Declaration, including all such covenants, conditions and restrictions, shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by the Owners of at least three-fourths (3/4) of the Lots.

8.2 Amendment.

(a) This Declaration may be amended by Declarant acting alone so long as Declarant holds at least five (5) Lots in the Association.

(b) In addition to the method provided in Article 8.2(a), this Declaration may be amended by the recording in the Official Public Records of Williamson County, Texas, of an instrument executed and acknowledged by the President and Secretary of the Association, setting forth the amendment and certifying that such amendment has been approved by enough other Owners entitled to cast a vote so that the total number of Owners approving the amendment equal at least eighty percent (80%) of the number of votes entitled to be cast pursuant to Article 5.3.

8.3 Reservation of Right to Expand. Declarant reserves the right, but shall not be obligated, to expand this Declaration to include all or part of the Additional Property.

8.4 Supplemental Declaration. Annexation may be accomplished by a Supplemental Declaration which shall extend the scheme of this Declaration to the Additional Property. The procedure for supplementing the Declaration shall be the same procedure as set forth in Article 8.2(a) hereof for amending the Declaration.

8.5 Approval of HUD/VA. Notwithstanding the foregoing, during the existence of the Class B Membership (as that term is defined in the Bylaws), annexation of Additional Property, dedication of Common Areas to the Association, and amendment of this Declaration shall require the prior approval of HUD/VA to the extent such entity has a loan which is secured by a Lot. Further, Declarant intends that the Property shall comply with all requirements of all mortgagees wishing to make, purchase or guarantee loans or other extensions of credit secured by mortgages or deeds of trust against any of the Lots in the Property and, also, to comply with all applicable statutes, ordinances and rules and regulations of all quasi-governmental and governmental bodies having jurisdiction. Declarant and all Owners therefore agree that notwithstanding anything to the contrary contained herein, in the event the Property or any of the Property documents do not comply with the requirements or regulations of any institutional lender who is or desires to become a mortgagee (including, without limitation, the requirements of HUD/VA) or with any applicable statute, ordinance or rule or regulation, the Declarant, while there exists a Class B Membership, shall have the power (on behalf of the Association and each

and every Owner) to amend the terms of this Declaration and the Bylaws of the Association and/or to enter into any agreement with any institutional lender (or their designees) reasonably required by any of such institutional lenders to allow the Property to comply with such requirements or regulations, or simply in order to comply with any applicable statute, ordinance or rule or regulation.

8.6 Rights of Declarant. All rights and authority granted to Declarant hereunder shall continue until the earlier to occur of (a) April 15, 2014, or (b) the date on which at least 75% of the Lots (including any Additional Property annexed into this Declaration) have been deeded from a homebuilder to an individual homeowner (such earlier date, the "Declarant Termination Date"). On the Declarant Termination Date, all rights and authority granted to Declarant hereunder shall vest in, and thereafter be exercised by the Association, except for rights and authority which by their terms cease to exist hereunder on or prior to such date.

8.7 No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms or provisions. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants, terms or provisions shall assume all risks of the validity and enforceability thereof and by acquiring the Lot agrees to hold Declarant harmless therefrom.

8.8 Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third (3rd) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the person at the address given by such person to the Association for the purposes of service of notices, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing given by such a person to the Association.

8.9 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the development and operation of the Subdivision and of promoting and effectuating the fundamental concepts of the Subdivision set forth in this Declaration. This Declaration shall be construed and governed under the laws of the State of Texas.

8.10 Exemption of Declarant: Utility Easements.

(a) Notwithstanding anything in this Declaration to the contrary, Declarant shall not in any way be subject to the control of or under the jurisdiction of the Board, the Association or the Architectural Committee. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant to excavate and grade, to construct and alter drainage patterns and facilities, to construct any and all other

types of Improvements, sales and leasing offices and similar facilities, and to post signs incidental to construction, sales and leasing anywhere within the Property.

(b) Declarant reserves the right to locate, construct, erect and maintain or cause to be located, constructed, erected and maintained in and on any areas owned by Declarant sewer and other pipelines, conduits, wires and any Improvement relating to a public utility function, subject to Article 2.15 hereof, with the right of access to the same at any time for the purpose of repair and maintenance.

8.11 Assignment of Declarant. Notwithstanding anything in this Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights and duties under this Declaration to any other person or entity and may permit the participation, in whole or in part, by any other person or entity in any of its privileges, exemptions, rights and duties hereunder. Such assignment shall be evidenced by a written instrument, executed by Declarant and the assignee, and recorded in the Official Public Records of Williamson County, Texas.

8.12 Enforcement and Non-waiver.

(a) Except as otherwise provided herein, any Owner at his own expense, Declarant or the Board shall have the right to enforce the provisions of this Declaration. Such right of enforcement shall include both damages for, and injunctive relief against, the breach or threatened breach of any such provision.

(b) Every act or omission whereby any provision of this Declaration is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined by any Owner (at his own expense), Declarant or the Board.

(c) Any violation of any federal, state or local law, ordinance or regulation pertaining to the ownership, occupancy or use of any portion of the Property is hereby declared to be a violation of this Declaration and subject to all of the enforcement procedures set forth herein.

(d) The failure to enforce any provision of this Declaration at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of this Declaration.

(e) The Association shall have the right, when appropriate in its judgment, to claim and impose a lien upon any Lot or Improvement constructed thereon in order to enforce any right under, or effect compliance with, this Declaration.

8.13 Alternative Dispute Resolution. In the event of any dispute, controversy or claim between or among Declarant, any Owner or Owners, the Association and/or the Architectural Committee relating to or arising out of any provision of this Declaration, the parties to the

dispute shall meet in a good faith effort to resolve the dispute through negotiations. In the event the parties are unable to resolve the dispute through negotiations, such matter shall be submitted to and settled by such form of extra-judicial dispute resolution as the parties can mutually agree. To the fullest extent allowed by law, this clause shall be specifically enforceable under applicable laws to mandate the parties' use of a means of resolving disputes other than formal judicial proceedings. In the event the parties are unable to agree on another such form of dispute resolution, any dispute, controversy or claim arising out of any provision of this Declaration shall be submitted to binding arbitration following these procedures:

- (a) The arbitration shall take place in Williamson County, Texas.
- (b) Pending the outcome of arbitration, there shall be no changes made in the language of this Declaration.
- (c) The arbitration shall be initiated by any party to the dispute, claim or controversy giving written notice requesting arbitration to the other party or parties thereto, which notice shall include a precise statement of the matter to be arbitrated.
- (d) Within five (5) days of receiving notice of the written request for arbitration, the receiving party or parties shall designate in writing to the initiating party the name of an arbitrator who meets the requirements set forth herein below. The initiating party shall have five (5) days to object to the named arbitrator by designating in writing to the receiving party the name of another arbitrator who meets the requirements set forth herein below. The receiving party shall have five (5) days to object to the named arbitrator by giving written notice to the initiating party, in which case within five (5) days after the receipt of the written objection the two previously nominated arbitrators shall designate an arbitrator by giving written notice of their choice to the receiving and initiating parties.
- (e) The arbitrator shall designate the time and place of the hearing which must occur within thirty (30) days of the arbitrator's selection. The arbitrator shall give twenty (20) days written notice of the hearing to the parties to the dispute, claim or controversy. The parties may be represented by attorneys at the hearing. The arbitrator shall make a decision within seven (7) days after the hearing and communicate that decision in writing to each party who participated in the hearing.
- (f) The request for arbitration must be made within a reasonable time after the dispute, claim or controversy has arisen. In no event may the request for arbitration be made after the date when institution of legal or equitable proceedings based on such dispute, claim or controversy would be barred by the applicable statute of limitations.
- (g) Anyone designated as an arbitrator (i) must be an impartial third party who has the training or qualifications required by the laws of the State of Texas and (ii) must not be personally acquainted with any of the parties to the dispute, claim or controversy.

(h) The arbitrator shall assess such costs against the party or parties who do not prevail.

8.14 Construction.

(a) The Provisions of this declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity of any other provision or portion thereof.

(b) Unless the context requires a contrary construction, the singular shall include the plural and the plural shall include the singular; and the masculine, feminine or neuter shall each include the masculine, feminine or neuter.

(c) All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit, or otherwise effect that which is set forth in any of the paragraphs, sections or Certificate of Formation hereof.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of this the 16TH day of APRIL, 2007.

DECLARANT:

BRIARWOOD SUBDIVISION, L.P.
a Texas limited partnership.

By: Timberlane Investments, Inc.,
a Texas corporation, its
General Partner

By: 
James M. Lassiter

THE STATE OF TEXAS

*

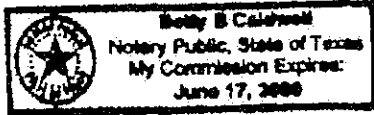
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COUNTY OF WILLIAMSON

This instrument was acknowledged before me on this the 16th day of April, 2007, by James M. Lassiter, President of Timberlane Investments, Inc., a Texas corporation, General Partner of JRL Briarwood Subdivision, L.P., a Texas limited partnership, on behalf of said partnership.

RECORDERS MEMORANDUM
All or parts of the text on this page was not clearly legible for satisfactory recordation.



Betty B. Caldwell
Notary Public in and for
the State of Texas
My Commission Expires: _____
(Print Name) _____

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Nancy E. Rister

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NANCY E. RISTER, COUNTY CLERK
WILLIAMSON COUNTY, TEXAS

