

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
WILLIAMS CREEK SUBDIVISION  
PHASE 3

THE STATE OF TEXAS §

COUNTY OF BRAZOS §

WHEREAS, JOHNSON INVESTMENTS, INC., a Texas corporation, acted for herein by its secretary (the "Declarant"), is the owner of that real property in Brazos County, Texas, which is more fully described on Exhibit "A", attached hereto and incorporated herein by reference and any future additions thereto (the "Property"); and

WHEREAS, the Declarant desires to convey the Property subject to certain protective covenants, conditions, restrictions, liens and charges as hereinafter set forth; 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;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that it is hereby declared (i) that all of the Property shall be held, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, liens and charges, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and which shall be binding on all parties having any right, title, or interest in or to the Property or any part thereof, their heirs, successors, and assigns, and which shall inure to the benefit of each owner thereof; and (ii) that each contract or deed that may hereafter be executed with regard to the Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to the following covenants, conditions and restrictions regardless of whether or not the same are set out or referred to in said contract or deed.

ARTICLE I.  
DEFINITIONS

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

1.01 Architectural Control Committee. "Architectural Control Committee" shall mean the committee created pursuant to this Declaration to review and approve plans for the construction of Improvements on the Property.

1.02 Architectural Control Committee Rules. "Architectural Control Committee Rules" shall mean the rules and regulations adopted by the Architectural Control Committee, as the same may be amended from time to time.

1.03 Articles. "Articles" shall mean Articles of Incorporation of the Williams Creek Owners Association, Inc., as that instrument may be amended from time to time, which instrument is filed in the office of the Secretary of State of the State of Texas.

1.04 Assessment. "Assessment" or "Assessments" shall mean such assessments as may be levied by the Association under the terms and provisions of this Declaration.

1.05 Association. "Association" shall mean the Williams Creek Owners Association, Inc., a Texas non-profit corporation, which shall have authority and responsibility for all of the communities and subdivision of Williams Creek, as hereafter defined.

1.06 Board. "Board" shall mean the Board of Directors of the Association. Board members must be Members of the Association.

1.07 Bylaws. "Bylaws" shall mean the Bylaws of the Association as adopted by the Board, and from time to time amended.

1.08 Common Areas. "Common Areas" shall mean any land conveyed, leased, dedicated or assigned by Declarant, or by a third party with the Association's consent, to the Association for maintenance and operation, including, but not limited to, easements, roads, entry ways, water detention and drainage, roadways, rights-of-way, parkways, median strips, sidewalks, parks, trails, paths, ponds, creeks and lakes within the Property.

1.09 Declarant. "Declarant" shall mean JOHNSON INVESTMENTS, INC., its duly authorized representatives or its respective successors or assigns; provided that any assignment of the rights of JOHNSON INVESTMENTS, INC., as Declarant must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder.

1.10 Declaration. "Declaration" shall mean this instrument as it may be amended from time to time.

1.11 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, fences, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment, and poles, pumps, walls, tanks, reservoirs, pipes, lines, meters, antennae, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

1.12 Lot. "Lot" or "Lots" shall mean any parcel or parcels of land within the Property shown as a subdivided lot on a recorded plat of all or any part of the Property, together with all improvements located thereon and any parcel or parcels of land within any addition to the existing Property as may be made pursuant to Article II, Section 2.02 of this Declaration.

1.13 Member. "Member" or "Members" shall mean any person(s), entity, or entities holding membership rights in the Association.

1.14 Mortgage. "Mortgage" or "Mortgages" shall mean any mortgage or deed of trust covering any portion of the Property given to secure the payment of a debt.

1.15 Mortgagee. "Mortgagee" or "Mortgagees" shall mean the holder or holders of any Mortgage or Mortgages.

1.16 Owner. "Owner" or "Owners" shall mean a person or persons, entity or entities, including Declarant, holding a fee simple interest in any Lot on the Property, but shall not include a Mortgagee.

1.17 Person. "Person" or "Persons" shall mean any individual, individuals, entity or entities having the legal right to hold title to real property.

1.18 Plans and Specifications. "Plans and Specifications" shall mean any and all documents designed to guide or control the construction or erection of any Improvement, including, but not limited to, those indicating location, size, shape, configuration, materials, site plans, design development plan, excavation and grading plans, specifications on all building products and construction techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to such Improvement.

1.19 Williams Creek. "Williams Creek" shall mean the "community", or subdivisions, consisting of the Property. The Declarant, or the Board, shall have the authority to declare other tracts subject to the same or similar residential restrictions, and to award membership in the Association to lot owners of other subdivisions, or to merge with other Associations, on terms acceptable to the Board.

1.20 Williams Creek Phase 3. "Williams Creek Phase 3" shall mean the subdivision created by plat recorded in Volume 7249, Page 292 of the Official Records of Brazos County, Texas.

1.21 Williams Creek Residential Restrictions. "Williams Creek Residential Restrictions" shall mean this Declaration, as the same may be amended from time to time, together with the Williams Creek Rules, Architectural Control Committee rules and the Articles and Bylaws of the Association as the same are in effect from time to time.

1.22 Williams Creek Rules. "Williams Creek Rules" shall mean the rules and regulations adopted by the Board as the same may be amended from time to time.

## ARTICLE II. DEVELOPMENT OF THE PROPERTY

2.01 Development by Declarant. Declarant may divide or subdivide the Property into several areas, develop some of the Property, and, at Declarant's option, sell any portion of the Property free of the restrictions set forth in this Declaration.

2.02 Addition of Land. Declarant may, at any time and from time to time, add any other lands to the Property, and upon such addition, this Declaration and the covenants, conditions, restrictions and obligations set forth herein shall apply to the added land, and the rights, privileges, duties and liabilities of the persons subject to this Declaration shall be the same with respect to the added land as they are with respect to the lands originally covered by this Declaration, except as specifically modified in a Supplemental Declaration. In order to add lands to the Property hereunder, Declarant shall be required only to record in the Official Records of Brazos County, Texas, a notice of addition of land (the "Supplemental Declaration") containing the following provisions:

- a. A reference to this Declaration, which shall state the book and page numbers of the Official Records of Brazos County wherein this Declaration is recorded;
- b. A statement that the provisions of this Declaration shall apply to the added land, except as modified in the Supplemental Declaration; and
- c. A legal description of the added land.

2.03 Withdrawal of land. Declarant may, at any time and from time to time, reduce or withdraw areas owned by it from the Property, and upon such withdrawal, this Declaration and the covenants, conditions, restrictions and obligations set forth herein shall no longer apply to those lands withdrawn. In order to withdraw lands from the Property hereunder, Declarant shall be required only to record in the Official Records of Brazos County, Texas, a notice of withdrawal of land containing the following provisions:

- a. A reference to this Declaration, which reference shall state the book and page numbers of the Official Records of Brazos County wherein this Declaration is recorded.
- b. A statement that the provisions of this Declaration shall no longer apply to the withdrawn land; and
- c. A legal description of the withdrawn land.

### ARTICLE III. GENERAL RESTRICTIONS

All of the Property shall be owned, held, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions:

3.01 Construction of Improvements. No Improvements shall hereafter be constructed upon any of the Property without the prior approval of the Architectural Control Committee. Residential improvements must be completed on all lots prior to the expiration of four (4) years from date of sale of any lot(s) by Declarant to the first purchaser thereof.

3.02 Antennas. No exterior antennas, aerials, satellite dishes, or other apparatus for the transmission of television, radio, satellite or other signals of any kind shall be placed, allowed, or

maintained upon any portion of the Property, including any Lot, which is visible from any street, common area, trails, or other Lot unless it is impossible to receive signals from said location. In that event the receiving device may be placed in a visible location as approved by the Architectural Control Committee. The Architectural Control Committee may require as much screening as possible while not substantially interfering with reception. The Declarant and/or the Association shall have the right, without obligation, to erect or install an aerial, satellite dish, master antenna, cable system, or other apparatus for the transmission of television, radio, satellite or other signals for the benefit of all or a portion of the Property. No satellite dishes shall be permitted which are larger than 1 meter in diameter. No broadcast antenna mast may exceed the height of the center ridge of the roofline. No MMDS antenna mast may exceed the height of twelve feet (12') above the center ridge of the roofline. No exterior antennas, aerials, satellite dishes, or other apparatus which transmit television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Property. The Declarant by promulgating this section is not attempting to violate the Telecommunications Act of 1996 ("the Act"), as may be amended from time to time. This section shall be interpreted to be as restrictive as possible while not violating the Act.

3.03 Insurance Rates. Nothing shall be done or kept on the Property which would increase the rate of insurance or cause the cancellation of insurance on any Lot or any of the Improvements located thereon without the prior written approval of the Board.

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

3.05 Signs. No sign of any kind shall be displayed to the public view on the Property without the prior written approval of the Architectural Control Committee, except for the following: (i) signs which are part of Declarant's overall marketing plan for the Property; (ii) one (1) sign per Lot, not exceeding 2' x 3' in area, fastened only to a stake in the ground and extending not more than three (3') feet above the surface of such Lot advertising the Property for sale or lease; (iii) not more than two (2) political signs, not exceeding 2' x 3' in area, per Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal, provided that such signs shall not be erected more than thirty (30) days in advance of the election to which they pertain and shall be removed within three (3) days after such election; (iv) signs containing information about one or more children residing in the residence on a Lot and the school they attend, provided the sign is not more than 36" x 36" and is fastened only to a stake in the ground and there shall be no more than one sign for each child under the age of eighteen (18) residing in the residence, and said signs may not be displayed more than ten (10) days in any calendar month, for more than three (3) months in a calendar year; (v) signs or stickers provided to an Owner by a commercial security or alarm company provided service to the residence, provided the sign is not more than 8" x 8" or the sticker is no more than 4" x 4" and there shall be no more than one sign and no more than six (6) stickers located on the windows or doors; (vi) stickers on windows and doors for the "Child Find" program or a similar program sponsored by a local police and/or local fire department; or (vii) a

builder or lender may place certain information and advertising signs on Lots without the prior permission of the Architectural Control Committee.

If any sign is placed within the subdivision in violation of this Declaration, the Association or its agents shall be authorized to enter upon any Lot or homesite and remove and/or dispose of any such sign violation, and in doing so shall not be subject to any liability for trespass, other tort or damages in connection with or arising from such entry, removal and/or disposal nor in any way shall the Association or its agent be liable for any accounting or other claim for such action.

3.06 Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property and no odors shall be permitted to arise therefrom so as to render the Property or any portion thereof 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 such containers shall be kept within enclosed structures or screened from view from the street, adjoining Lots and other parts of the Property. If rubbish or debris accumulates upon any Lot in violation of this provision in the judgment of the Association, the Association may remove the rubbish or debris, and charge a special assessment to the Owner of the Lot.

3.07 Disposal of Trash. No part of the Property shall be used or maintained as dumping grounds for rubbish. Trash, garbage or other equipment for storage or disposal of such material shall be kept in a clean and sanitary condition.

3.08 Neat and Clean Condition. Owners shall not permit the accumulation of trash, rubbish, weeds, or other unsightly obstacles on their Lots or on the Easements or on the streets abutting the same. Each Owner shall be responsible for proper disposition of his trash and garbage. Owners must maintain all portions of their Lots visible from an Access Road, Trail, Common Area or Dwelling Unit on another Lot in a neat and clean condition.

3.09 Noise. 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 to its occupants.

3.10 Lighting. No exterior lighting of any sort shall be installed or maintained on a Lot where the light source is offensive or a nuisance to neighboring property, except for reasonable security or landscape lighting that has the approval of the Architectural Control Committee.

3.11 Nuisance. No noxious or offensive activity or work shall be conducted upon any Lot so as to impair the structural soundness or integrity of any Improvement of any other Lot, or which may be or may become an annoyance or nuisance to the neighborhood.

3.12 Repair of Improvements. All Improvements upon the Property, including any Lot, shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner or Owners thereof.

3.13 Alteration or Removal of Improvements. Exclusive of normal maintenance, any construction or removal in connection with any improvement which in any way alters the exterior appearance of said improvement shall be performed only with the prior written approval of the Architectural Control Committee.

3.14 Roofing Materials. The surface of all roofs of principal and secondary structures shall be wood, shingle, shakes, tile or quality composition shingle. The Architectural Control Committee shall have authority to approve other roof treatments and materials when in its determination such treatments and materials in the form utilized will not be a detriment to the quality of the neighborhood.

3.15 Solar Equipment. In the event an Owner desires to use solar panels or other solar equipment in connection with the use of any Lot which may be seen from the street, adjoining Lots or other parts of the Property, the location and installation design thereof shall be submitted to the Architectural Control Committee and approval of such design, including the aesthetics thereof, shall be required before construction may begin.

3.16 Driveways. All driveways on a Lot accessing an Access Road must have an asphalt or concrete driveway apron. All driveways require a culvert over the borrow ditch. The culvert must be constructed entirely of concrete with concrete end treatments. The size of the culvert pipe to be constructed on the driveway of a particular lot shall be as determined and approved by the Architectural Control Committee.

3.17 Tanks. Except as otherwise approved by the Architectural Control Committee, all tanks for the storage of gas, propane or oil shall be fenced so as not to be visible from any other Lot, Access Road or Trail or installed below ground level. The Architectural Control Committee must approve the location of any other type of tank used on a Lot.

3.18 Underground Utility Lines. No utility lines, including, but not limited to, wires or other devices for the communication or transmission of telephone or electric current or power, cable television or any other type of line or wire shall be erected, placed or maintained anywhere in or upon any portion of the Property unless the same shall be contained in conduit or cables installed and maintained underground or concealed in, under or on Improvements as approved in writing by the Architectural Control Committee, 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 Control 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 utilities, shall be subject to review and approval by the Architectural Control Committee.

3.19 Stormwater Management. Owners and their contractors shall be responsible for the management of stormwater during construction or ground disturbing activities to prevent erosion and sedimentation from leaving the immediate construction site or entering into any existing or contemplated Waterway, drainageways, and roadside ditches. During construction of a Dwelling Unit, Structure, Improvement, foundations, driveways, barns, approved landscape areas, or any other construction requiring soil grading activities, Owners and their contractors

and agents must use appropriate stormwater management measures, such as silt fencing or hay bales between the construction area and drainageways. Final stabilization with seeding or mulch is required to minimize erosion following construction.

3.20 Drainage Maintenance. Owners shall be responsible for keeping Drainage Easements and Drainage Maintenance Easements free of obstructions and shall not permit fences or other obstructions to be placed in said easements. Owners shall also be responsible for stabilization of slopes in Drainage Easements and Drainage Maintenance Easements.

3.21 No Pollution. No act may be performed which is likely to pollute the air or water in any part of the Property, nor may any Owner violate any federal, state or local ordinance or regulation designed to eliminate pollution at that time in force.

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

3.23 Mining and Drilling. No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon any Lot. No water storage tanks greater than 500 gallons can be constructed. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

3.24 Machinery and Equipment. Without the approval of the Association or Declarant, no machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot or Common Area except, during construction, such machinery or equipment as is usual and customary in Brazos County, Texas, in connection with the use, maintenance, or construction of a private residence or appurtenant structures or recreational facilities maintained by the Association; provided, however, such machinery or equipment may be placed, operated or maintained by any governmental or quasi-governmental agency, or by a public utility, in the performance of its legitimate functions.

3.25 Septic Systems. No Dwelling Unit shall be built without a State of Texas, Brazos County, or other required governmentally approved septic tank or other sewage disposal system that is so approved.

3.26 Temporary Structures. No tent, shack or other temporary building, improvement or structure shall be placed upon the Property without the prior written approval of the Architectural Control Committee; provided, however, that the Declarant may maintain or authorize temporary structures necessary for storage of tools and equipment, and for office space for builders and foremen on the Property during any period of actual construction, which authorization, if given, shall include the nature, size, duration and location of such structure or structures.

3.27 Unsightly Articles; Vehicles. No trailer, recreational vehicle, motor home, tent, boat, or stripped down, wrecked, junked, or vehicle not legally operable on public streets shall be kept, parked, stored, or maintained on any portion of the driveway or front yard in front of the building line of the permanent structure, and same shall be kept, parked, stored or maintained on other portions of a Lot only within an enclosed structure or a screened area which prevents the view thereof from adjacent Lots or streets. No dismantling or assembling of motor vehicles, boats, trailers, recreational vehicles, or other machinery or equipment shall be permitted in any driveway or yard.

3.28 Fencing. All fencing within view of any Access Road, Common Area, Dwelling Unit on another Lot, Trail or a Lake shall be of a size, design, color, location, height and material as determined and approved by the Architectural Control Committee. Fencing Guidelines will include, without limitation, requirements regarding fence types, locations and quality of materials. Prior to designing, ordering or acquiring any fencing materials or designs for a Lot, all Owners must obtain approval from the Architectural Control Committee. No wire fence (hog wire, chicken wire or chain link) may be built if visible from an Access Road, Trail, Common Area, and Dwelling Unit on another Lot. Chain link fencing may be used in areas not within view of any Access Road as long as the fencing is coated in green, brown or black vinyl. No fire hydrants can be fenced so as to impede access thereto from a public right of way.

3.29 Animals -- Household Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot within the Property for commercial purposes. No swine may be kept or maintained on any Lot. There will be no wild, exotic, or naturally undomesticated animals allowed to be caged or otherwise kept on any Lot. All poultry must be caged and must be kept no closer than fifty (50) feet of any Lot line. No animals including dogs and cats will be allowed to roam free in the subdivision and all of such animals shall be kept within enclosed areas which must be clean, sanitary and reasonably free of refuse, insects and waste at all times. Such enclosed area shall be constructed in accordance with Plans and Specifications approved by the Architectural Control Committee, shall be of reasonable design and construction to adequately contain such animals in accordance with the provisions hereof, and shall be screened so as not to be visible from adjoining Lots, streets and other parts of the Property. No more than three (3) adult dogs and two (2) adult cats may be kept on a single Lot. All domestic household pets shall be kept in strict accordance with all local laws and ordinances. In the event any animal creates a nuisance to the Subdivision in the sole and exclusive opinion of the Architectural Control Committee such animal will be removed from the Subdivision. The Architectural Control Committee shall have the right to enter and remove any such animal which is placed on any Lot in violation of this Section, and in so doing, shall not be liable and is expressly relieved from any liability for trespass or other tort in connection therewith, or arising from such removal. Each Lot shall be allowed one (1) animal unit per one and one-half (1.5) acre. Animal unit is one (1) cow or horse. Any special 4-H or FFA school project must have prior approval of the Architectural Control Committee. The Architectural Control Committee has the right to enforce the removal of any unsightly structures, feeding and/or watering devices

3.30 Maintenance of Lawns and Plantings. Each Owner shall keep all shrubs, trees, grass and plantings of every kind on such Owner's Lot cultivated, pruned, and free of trash and other unsightly material. Subject to Section 3.34 below, trees, shrubs, vines and plants that die shall be promptly removed. Declarant, the Association and the Architectural Control Committee

shall have the right at any reasonable time after not less than ten (10) days' written notice to Owner to enter upon any Lot to replace, maintain and cultivate shrubs, trees, grass or other plantings located thereon, and to charge the cost thereof to the Owner of the Lot as provided in Section 5.04(E) below.

3.31 Landscape Design. All houses must be properly landscaped and a sprinkler system installed in the entire front yard prior to occupancy unless written approval of an alternate plan is first obtained from the Architectural Control Committee. A written variance for landscaping can be granted by the Architectural Control Committee. All landscaping shall be designed so as to protect and promote, as far as practicable, the natural local landscape environment through use of native materials, natural drainage, indigenous plant selection and site design. All landscaping designs shall:

- (A) Wherever possible, save and incorporate into the Plans and Specifications, existing trees having trunk diameters of four (4) or more inches. To insure the viability of these trees, soil compacting, trenching and/or cut and fill shall be avoided, to the greatest extent possible, in the area defined by a tree's dripline.
- (B) Maintain or enhance, wherever possible, existing vegetation within drainage easement to prevent erosion, siltation or impediment of runoff augmented by development.
- (C) Install live, growing sod covering the front and side yards, prior to occupancy of any residence constructed on a Lot, and an equivalent substitute which achieves as satisfactory a ground cover in approximately the same period of time in the backyard, all such ground cover to be indigenous to or commonly used in the area, and maintained in a healthy and growing condition.
- (D) Install live, growing and healthy shrubs, bushes, vegetation, trees, and front yard must be sodded, prior to occupancy of any residence constructed on a Lot, which have a retail value for materials and labor equal to at least \$500.00. Existing indigenous shrubs, trees, bushes and vegetation shall not be included within this requirement, nor shall ground cover, mulch, grass, sod or bed preparation. The Association may cure any default of this covenant in the manner provided in Article V hereof.

3.32 Construction and Sales Activities. Notwithstanding any provision herein to the contrary, this Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner (including Declarant) upon any Lot within the Property, or the sale of any Lot thereafter. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. No building material of any kind shall be placed or stored upon any Lot until the Owner thereof is ready to commence Improvements, and then the material shall be placed within the property lines of the Lot upon which the Improvements are to be erected and shall not be placed on the street or on

any other part of the Property. In the event of any dispute regarding such matters, a temporary waiver of the applicable provision may be granted by the Architectural Control Committee, provided that such waiver shall be only for the reasonable period of such construction. At such time as the Declarant ceases using any portion of the Property as a model home or sales office, the affected Property shall be altered and/or remodeled, if necessary or desirable, to comply with the covenants and restrictions contained herein.

3.33 Mailbox. Mailboxes shall be erected and maintained on each Lot upon which a residence is situated, and shall be fixed on masonry stanchions (columns), approved by the Architectural Control Committee. No metal post stands shall be permitted. Each mailbox shall be new when installed, constructed of durable steel or aluminum, and of a size and shape conforming to postal authority standards for single family residential postal depositories. Mailboxes shall be located on the curb in accordance with postal regulations.

3.34 Sight Lines. No fence, wall, hedge, or shrub planting which obstructs sight lines from streets on the Property shall be placed or permitted to remain on any corner Lot within the area defined by a line drawn between two points located forty (40') feet from the point of intersection of the street right-of-way property lines immediately adjacent to the Lot, as reasonably located by the Architectural Control Committee. Measurement shall be by chord, not by arc. No tree shall be permitted to remain within such areas, unless the foliage is maintained at sufficient height to prevent obstruction of such sight lines.

3.35 Garages. Garages must be at least a two-car garage unless prior written approval is obtained from the Architectural Control Committee. No garage, or any portion thereof, may be converted into enclosed living space unless an alternative garage of at least equal size is constructed and the plans and specifications for the conversion and construction are first approved in writing by the Architectural Control Committee.

3.36 Windows and Doors. Doors and windows in any residence on any Lot shall comply with all the requirements of Article 5.33A, Section 6(a)(1) of the Insurance Code of the State of Texas, as it now exists, which provisions are sometimes called Standard I guidelines for home security, the "Safe Home" program. Those guidelines are as follows:

- (A) Exterior doors must be solid core doors that are a minimum of 1 3/8 inches thick and must be secured by dead-bolt locks. All dead-bolt locks must lock with a minimum bolt throw of 1 inch that penetrates a metal strike plate mounted with 3 inch screws.
- (B) Metal doors must be secured by dead-bolt locks.
- (C) If glass is within 40 inches of a locking device, the lock must be key operated from both sides.
- (D) Double doors must have the inactive door secured by header and threshold bolts that penetrate metal strike plates, and in case of glass located within 40 inches of header and threshold bolts, the inactive door must have the bolts flush-mounted in the edge of the door.

- (E) Sliding doors must be secured by secondary locking devices to prevent lifting and prying.
- (F) Dutch doors must have concealed flush-bolt locking devices to interlock upper and lower halves and must be secured by a dead-bolt lock.
- (G) Garage doors must be equipped with key-operated locking devices.
- (H) Windows must be secured by auxiliary locking devices (screws, wooden dowels, pinning devices, or key-operated locks).
- (I) Windows and doors must be clear of exterior shrubbery.

If revisions are adopted in the statute referenced above by the Texas Legislature, such revisions may also be adopted herein, if such action is taken pursuant to Section 9.03 below.

3.37 Electronic Burglar Alarms. If any residence on any lot has an electronic burglar alarm system, such system shall comply with all of the requirements of Article 5.33A, Section 6(a)(2) of the Insurance Code of the State of Texas, as it now exists, which provisions are sometimes called Standard II guidelines for home security, the "Safe Home" program. Those guidelines are as follows:

- (A) All exterior structure openings are contacted (including non-opening windows).
- (B) The system includes an interior and exterior siren.
- (C) All equipment is U.L. approved and monitored by a U.L. approved central station.
- (D) Sales, service, installation, and monitoring of the system are done in compliance with the Private Investigators and Private Security Agencies Act.

3.38 Room and Board Plans. No Owner shall permit any Lot or Improvement on any Lot to be used in whole or in part by tenants on rooming or boarding plans or contracts. Any single family lease must be approved by the Architectural Control Committee prior to taking of possession by any lessee.

3.39 Compliance with Provisions of Williams Creek Residential Restrictions. Each Owner shall comply strictly with the provisions of the Williams Creek Residential Restrictions as the same may be amended from time to time. Failure to comply with any of the Williams Creek Residential Restrictions shall constitute a violation of this Declaration, and shall give rise to a cause of action to recover sums due for damages or injunctive relief or both, maintainable by the Board on behalf of the Association or by any aggrieved Owner. Declarant, for itself, its successors or assigns, reserves the right to enforce these restrictive covenants, though it may

have previously sold and conveyed all subdivided Lots controlled by these covenants within the Property. The reservation of this right of enforcement shall not create an obligation of any kind to enforce the same.

3.40 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 Article III or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to the 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 upon 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.

#### ARTICLE IV. RESIDENTIAL RESTRICTIONS

4.01 Residential Use. All Lots shall be improved and used solely for single family residential purposes inclusive of a garage, fencing and such other Improvements as are necessary or customarily incident to residential use. No Owner shall occupy or use his Lot or any improvements constructed thereon, or permit the same or any part thereof to be occupied or used for any purpose, including religious, other than as a private residence for the Owner, his family and guests. All Lots within the Property shall be used and improved solely for single family residential purposes, with no more than one (1) attached residential dwelling unit per Lot. The term "single family" as used in this Section 4.01 shall refer not only to the architectural design of the dwelling unit but also to the permitted number of inhabitants which is limited to a single nuclear family. A "single nuclear family" is any number of persons related within the second degree of consanguinity or affinity, living with not more than one (1) person who is not so related as a single household unit and one household employee of such household unit. It is not the intention of Declarant to exclude from a homesite any individual who is authorized to remain by any state or federal law. Anything herein to the contrary notwithstanding, any Lot may be used or improved for greenbelt, open space and/or drain field purposes. No Improvement may be constructed upon any Lot that would unreasonably obstruct the view from other portions of the Property, and the positioning of all Improvements upon Lots within the Property is hereby expressly made subject to Architectural Control Committee review. The Architectural Control Committee may, but shall not be required to prevent or allow the construction of a proposed Improvement based upon the effect it will have upon the view from any particular Lot. The Architectural Control Committee may consider the effect the Improvement will have on the Property as a whole, it being expressly understood that neither the Architectural Control Committee nor the members thereof shall be liable to any Owner in monetary damages or otherwise due to the construction of any Improvement within the Property or the creating thereby of an obstruction to the view from such Owner's Lot or Lots.

4.02 Outbuildings. Every outbuilding, inclusive of such structures as a detached garage, storage building, greenhouse, or barns, shall be compatible with the dwelling to which it is appurtenant in terms of its design and material composition. All such buildings are subject to approval by the Architectural Control Committee.

4.03 Building Height. No Improvement greater than thirty-three (33') feet in height may be constructed on any Lot without the prior written approval of the Architectural Control Committee. For purposes of this paragraph, height shall be measured from the foundation slab of the proposed Improvement to the ridge line of the roof of the proposed Improvement.

4.04 Building Materials, Dwelling Size. All single family dwellings shall be of recognized standard construction quality, and all exteriors (exclusive of doors, windows, and similar openings) shall be constructed at least eighty percent (80%) architectural masonry or other material specifically approved in writing by the Architectural Control Committee. Masonry includes ceramic tile, brick, rock and all other materials commonly referred to in the College Station, Texas area as masonry. Unless an exception is granted by the Architectural Control Committee, all single family dwellings in Williams Creek, Phase 3 shall contain not less than two thousand eight hundred (2800) square feet of enclosed living space for dwellings constructed on Lots, in all cases exclusive of porches (open or covered), decks, garages and carports. The square footage of enclosed living space for residences on Lots in subsequent phases of development shall be determined by Declarant and set forth in an instrument to be recorded in the Official Records of Brazos County, Texas. Each residence built on a lot shall include an enclosed attached or detached garage or other structure sufficient to meet the requirements of Sections 3.16 and 3.27 above.

4.05 Construction in Place. The use of prefabricated materials, including antique homes moved from other locations, shall not be allowed.

4.06 Set-back Requirements. No building shall be located or erected nearer to any Lot line bordering a street right-of-way than the building line shown on the recorded plat of the Property subdivision section which includes such Lot. No building shall be located nearer than twenty (20') feet to any interior side Lot lines. No building shall be located nearer than fifty (50') feet from any front or rear Lot lines.

#### ARTICLE V. WILLIAMS CREEK OWNERS' ASSOCIATION

5.01 Organization. Declarant has caused the formation and incorporation of the Association as a nonprofit corporation created for the purposes, charged with the duties, and vested with the powers prescribed by law or set forth in its Articles and Bylaws or in the Declaration. Neither the Articles nor Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

5.02 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 the said property interest.

5.03 Voting Rights. The right to cast votes, and the number of votes which may be cast, for election of directors to the Board and on all other matters to be voted on by the Members shall be calculated as follows:

- (A) The Owner, whether one or more (including Declarant), of each Lot within the Property shall have one vote for each Lot so owned.
- (B) In addition to the votes to which Declarant is entitled by reason of Subparagraph (A) of this Section, (1) for every such vote Declarant shall have three (3) additional votes, and (2) for each part of the Property that has not been subdivided by plat recorded in the Official Records of Brazos County, Texas, Declarant shall have four (4) votes for each acre owned by Declarant. Declarant shall have the number of votes described in this Section 5.03(B) until such time as all of the Property has been subdivided by plat and eighty percent (80%) of the Lots have been transferred by Declarant (the "Transition Date"). Thereafter, Declarant shall have only the votes, if any, to which it is entitled under Subparagraph (A) of this Section.

5.04 Powers and Authority of the Association. The Association shall have the powers of a Texas nonprofit corporation, subject only to any 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 which 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 following powers and authority at all times:

- (A) Williams Creek Rules and Bylaws. To make, establish and promulgate, and in its discretion to amend or repeal and re-enact, such Williams Creek Rules and Bylaws, not in conflict with this Declaration, as it deems proper to address any and all aspects of its functions.
- (B) Insurance. To obtain and maintain in effect policies of insurance which, in the opinion of the Board, are reasonable, necessary or appropriate to carry out Association functions.
- (C) Records. To keep books and records of the Association's affairs.
- (D) Assessments. To levy Assessments as provided in Article VII below.
- (E) Right of Entry and Enforcement. To enter at any time in an emergency, or in a non-emergency, after ten (10) days' written notice, without being liable to any Owner, upon any Lot and into any Improvement thereon for the purpose of enforcing the Williams Creek Residential Restrictions or for the purpose of erecting, maintaining or repairing any Improvement to conform to the Williams Creek Residential Restrictions, and the expense thereon shall be a personal obligation of the Owner of the Lot entered upon, shall be a lien upon the Lot entered on and Improvements thereon, and shall be enforced in the same manner

and to the same extent as provided in Article VII 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 an Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of the Williams Creek Residential Restrictions. The Association is also authorized to settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the Williams Creek Residential Restrictions; provided, however, that the Board shall never be authorized to expend any Association funds for the purpose of bringing suit against Declarant, its successors or assigns.

- (F) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper for the operation of the Association.
- (G) Delegation to Committees. To set up one or more committees as authorized by the Texas Non-Profit Corporation Act, as the same is amended from time to time.
- (H) Employees. To engage such employees as may be reasonably necessary in the management of the Association and the performance of its duties.

5.05 Landscape and Maintenance. The Association shall be authorized to landscape, maintain and repair easements, right-of-way, common areas, entryways, sidewalks, paths, trails, detention ponds, lakes, and other areas of the Property, as appropriate.

5.06 Common Areas.

- (A) Subject to and in accordance with this Declaration, the Association, acting through the Board, shall have the following duties:
  - (1) To accept, own, operate and maintain all Common Areas which may be conveyed or leased to it by Declarant, together with any Improvements of any kind or purpose located in said areas; and to accept, own, operate and maintain all other property, real and personal, conveyed or leased to the Association by Declarant; and to maintain in good repair and condition all lands, Improvements, and other Association property owned by or leased to the Association, whether by Declarant or by other Persons.
  - (2) To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to any property owned by or leased to the Association to the extent that such taxes and assessments are not levied directly upon individual Members of the Association. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.
  - (3) To execute mortgages, both construction and permanent, for construction of Improvements on property owned by or leased to the Association, and

to accept lands in Common Areas, whether or not improved, from Declarant subject to such mortgages or by assuming such mortgages. Financing may be effected through conventional mortgages or deeds of trust, the issuance and sale of development or other bonds, or in any other form or manner deemed appropriate by the borrower, whether Declarant or the Association. The mortgage or other security interest given to secure repayment of any borrower, whether Declarant or the Association, on the Improvement to be constructed, together with such underlying and surrounding lands as the borrower deems appropriate. The debt secured by such mortgage or other security instrument may be retired from and secured by the revenues generated by dues, use fees, assessments of Members, or otherwise, or any combination thereof, as may be deemed appropriate by Declarant or the Association, as the case may be, but subject to the limitations imposed by this Declaration.

(B) In addition to, and not in limitation of, the power and authority of the Association as set forth in Section 5.04 of this Declaration, the Association, acting through the Board, shall have the power and authority:

(1) To grant and convey portions of Association property, including fee title, leasehold estates, easements, right-of-way, and/or mortgages, to any person or entity for the purpose of constructing, erecting, operating or maintaining the following:

- (a) Parks, parkways or other recreational facilities or structures;
- (b) Roads, streets, walks, driveways, trails, and paths;
- (c) Lines, cables, wires, conduits, pipelines or other means of providing utilities;
- (d) Sewers, water systems, storm water drainage systems, sprinkler systems and pipelines; and/or
- (e) Any similar public, quasi-public or private Improvements.

Nothing contained in this Subparagraph, however, shall be construed to permit use or occupancy of any Common Area or Improvements in a way that would violate applicable use and occupancy restrictions imposed by other provisions of this Declaration, or by any statute, rule, regulation, ordinance or other governmental entity, including but not limited to rules and orders of the Texas Water Development Board, Texas Water Commission, and any flood plain, industrial waste or other ordinance of the City of College Station.

(2) To pay for water, sewer, garbage removal, landscaping, gardening and all other utilities, services and maintenance for the property of the Association.

- (3) To pay for any other services necessary or proper in the performance of Association functions, and to pay for any other taxes or assessments that the Association or the Board is required to secure or to pay for pursuant to applicable law, the terms of this Declaration, or the Articles or Bylaws of the Association.
- (4) To own and operate any and all types of facilities for both active and passive recreation.
- (5) To construct new Improvements or additions to Association properties, subject to the approval of the Architectural Control Committee as required in this Declaration.
- (6) To enter into contracts with Declarant and other persons, on such terms and provisions as the Board shall determine, to operate and maintain any of the Common Areas or to provide any service or perform any function on behalf of Declarant or the Association in connection with the purposes of the Association.
- (7) To acquire and own and to dispose of all manner of real and personal property, whether by purchase, grant, lease, gift or otherwise.
- (8) To merge with other associations having the same or similar purposes and objectives, or terms acceptable to the Board.

5.07 Agreement with City of College Station and County of Brazos. The Declarant, as the agent of the Association, or the Association, may enter into one or more agreements with the City of College Station or State of Texas or both, with respect to the landscaping and maintenance of portions of street right of way, or the dedication of any drainage basin, park or other common area within the property for municipal maintenance. The Association shall accept, without further requirement or documentation, said agreement and the requirements and benefits associated therewith, for any agreement reached by the Declarant.

5.08 Indemnification. The Association shall indemnify any director, officer, or member of a committee duly appointed pursuant to the Articles or Bylaws who was, or is threatened to be made a named defendant or respondent in any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrative, or investigative, any appeal in such an action, suit, or proceeding, and any inquiry or investigation that could lead to such an action, suit, or proceeding (hereinafter a "Proceeding") by reason of the fact that such person is or was a director, officer or member of such a committee of the Association, against all judgments, penalties (including excise and similar taxes), fines, settlements, and reasonable expenses actually incurred by the person in connection with any such Proceeding to the fullest extent permitted by the Texas Non-Profit Corporation Act, as amended and in effect from time to time. Such authorization of indemnification shall be deemed to be mandatory and deemed to constitute authorization of indemnification and advancement of expenses to the fullest extent permitted by the Texas Non-Profit Corporation Act, as amended and in effect from time to time.

ARTICLE VI.  
ARCHITECTURAL CONTROL COMMITTEE

6.01 Membership of Architectural Control Committee. The Architectural Control Committee shall consist of not more than three (3) voting members ("Voting Members") and such additional nonvoting members serving in an advisory capacity ("Advisory Members") as the Voting Members deem appropriate. The following persons are hereby designated as the initial Voting Members of the Architectural Control Committee: Joseph Stevens Johnson, Janet May Johnson and Ashley Johnson Moses.

6.02 Action by Architectural Control Committee. Items presented to the Architectural Control Committee shall be decided by a majority vote of the Voting Members.

6.03 Advisory Members. The Voting Members may from time to time designate Advisory Members.

6.04 Term. Each member of the Architectural Control Committee shall hold office until such time as he or she has resigned or has been removed or his or her successor has been appointed as provided herein.

6.05 Declarant's Rights of Appointment. Until the Transition Date described in Section 5.03, Declarant, its successors or assigns shall have the right to appoint and remove all Voting Members of the Architectural Control Committee, which persons need not be drawn from Association Members. Notwithstanding the preceding sentence, Declarant may delegate its right of appointment, or any portion thereof, to the Board by written instrument before such date. Whenever the Transition Date occurs, the Board shall have the right to appoint all Voting Members. At such time as the Board gains the right to appoint and remove Voting Members of the Architectural Control Committee, or any portion of this right, a majority of the Voting Members so appointed shall be drawn from Members of the Association. Advisory Members shall, when reasonably possible, be drawn from Members of the Association.

6.06 Adoption of Rules. The Architectural Control Committee may adopt such procedural and substantive rules and guidelines, not in conflict with this Declaration, as it deems necessary or proper for the performance of its duties, including, but not limited to a building code, a fire code, a housing code, and other similar codes.

6.07 No Builder can sell or trade lots to another party without prior approval of the Declarant or developer until June 29, 2009.

6.08 Architectural Control. No buildings, additions, modifications or improvements shall be erected, placed or performed on any Lot until the Builder Plans and Specifications have been submitted in duplicate and approved in writing by the Architectural Control Committee as hereinafter provided. Builders may submit their design plans as master design plans, which plans shall include all specifications, including specifications as to brick color and paint color, that may be used when building each design. The Architectural Control Committee may, at its sole discretion, retain and/or delegate review of plans and specifications to a designated AIA architect or other such person or firm as may be designated by the Architectural Control Committee,

experienced or qualified to review same, who may then render an opinion to the Architectural Control Committee. Approval of Plans and Specifications shall not cover or include approval for any other purpose and specifically, but without limitation, shall not be construed as any representation as to or responsibility for the structural design or engineering of the improvements or the ultimate construction thereof. In the event the Architectural Control Committee fails to approve such Plans and Specifications within thirty (30) days after the receipt thereof, they shall be deemed to be disapproved. The Architectural Control Committee or its assignee, at its sole discretion and to the extent wherein not expressly prohibited by this Declaration and any amended or supplemental declaration, is hereby permitted to approve in writing deviations in the general use restrictions set forth in Article III in instances where, in its judgment, such deviations will result in a more common beneficial use and enhance the overall development plan for the Property. The approval of a deviation in the general use restrictions by the Architectural Control Committee does not obligate the Architectural Control Committee to approve a similar deviation at a later time. Notwithstanding any other provision contained herein, any dwellings, additions, or improvements erected or placed on any Lot shall be deemed to comply with the building requirements of the Architectural Control Committee and related covenants contained in the Declaration unless the Architectural Control Committee so notifies the Owner otherwise in writing within four (4) years from the completion thereof. This provision, however, shall not be deemed a waiver of the right of the Architectural Control Committee or Declarant to enforce the continuing restriction of use contained herein.

The Architectural Control Committee shall have the authority hereunder to require any Owner or Owner's agents or contractors to cease and desist in constructing or altering any improvements on any Lot, where such actions have not first been reviewed and approved, constitute a violation of the Declaration, the building guidelines or any other documents promulgated by the Architectural Control Committee. The violating Owner shall remove such violating improvements or site work at its sole expense and without delay, returning same to its original condition or bringing the Lot into compliance with the Declaration, Architectural Control Committee documents and any plans and specifications approved by the Architectural Control Committee for construction on that Lot. This Declaration is notice of such approval requirements and, by purchasing a Lot, Owners hereby agree to bear the cost and expense to cure any violations according to these provisions, regardless of the substantial cost, time or loss of business involved.

Written notice may be delivered to Owner or any agent or contractor with apparent authority to accept same and notice shall be binding on Owner as if actually delivered to Owner.

The Architectural Control Committee or its agents or assigns shall have the right, but not the obligation, to enter any Lot to determine if violations of this Declaration, the building guidelines, or any other documents promulgated by the Architectural Control Committee exist. In so doing, the Architectural Control Committee shall not be subject to any liability for trespass, other tort or damages in connection with or arising from such entry nor in any way shall the Association or its agent be liable for any accounting or other claim for such action.

The Architectural Control Committee shall have the right to set reasonable time constraints for both the commencement and completion of construction, which constraints shall be no less than ninety (90) days to commence construction and twelve (12) months to complete

construction. If construction fails to start before the designated commencement date or is not completed before the designated completion date the plans shall be deemed not approved.

The Architectural Control Committee has the right to charge a review fee, to be established by the Board of Directors, for review of any plans or specifications submitted for approval to the Architectural Control Committee.

6.09 Actions of the Architectural Control Committee. The Architectural Control Committee may, by resolution unanimously adopted in writing, designate one or two 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 Control Committee. In the absence of such designation, the vote of a majority of all the members of the Architectural Control Committee taken without a meeting, shall constitute an act of the Architectural Control Committee.

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

6.11 Work in Progress. The Architectural Control Committee may at its option inspect all work in progress to insure compliance with approved Plans and Specifications.

6.12 Nonliability of Architectural Control Committee Members. Neither the Architectural Control Committee nor any member thereof shall be liable to the Association or to any Owner or to any other person for any loss, damage or injury arising out of their being in any way connected with the performance of the Architectural Control Committee's duties under this Declaration unless due to the willful misconduct or bad faith of the Architectural Control Committee or its members, as the case may be. Neither the Architectural Control Committee nor any member thereof shall be liable to any Owner due to the construction of any Improvements within the Property, or the creation thereby of any obstruction of the view from such Owner's Lot or Lots.

6.13 Address. Plans and Specifications shall be submitted to the Architectural Control Committee in care of the Association, or in care of such other person at such other address as may be designated by Declarant or the Board, as the case may be, from time to time.

6.14 Failure to Act. In the event the Architectural Control Committee or its designated representative fails to approve or disapprove any Plans and Specifications within ten (10) days after the same have been submitted to it, complete with all other information requested by the Architectural Control Committee in connection with such submission, approval shall be assumed.

6.15 Variances. Notwithstanding any other provision of the Declaration, in order to prevent undue hardship upon the Owner or Owners of any individual Lot or Lots upon the Property, variance from any restrictions set out in this Declaration may be granted by a

unanimous decision of the Architectural Control Committee in a written instrument to be duly acknowledged, if and when such a variance shall ever be granted.

6.16 Governmental Agency Approval. Nothing in this Declaration shall be construed to relieve any Owner from securing such approvals, certificates and/or permits as may be required by law in connection with the construction of any Improvements on any Lot.

6.17 Relationship with Association. The Architectural Control Committee has been created pursuant to this Declaration to perform certain functions specified herein relative to the review and approval of Plans and Specifications for Improvements built on the Property. The Architectural Control Committee does not exercise the authority of the Board, and shall not do so unless and until (i) the Board shall have duly appointed a majority of Board members to the Architectural Control Committee, and (ii) the Board shall by unanimous resolution, duly recorded in the records of the Association, make the Architectural Control Committee a committee of the Board in accordance with the Texas Non-Profit Corporation Act.

## ARTICLE VII. FUNDS AND ASSESSMENTS

### 7.01 Assessments.

(A) The Association may from time to time levy Assessments against each Lot whether or not improved. The level of Assessments shall be equal and uniform among all Lots, provided, however, that no Assessments hereunder shall be levied against Declarant.

(B) Where the obligation to pay an Assessment first arises after the commencement of the year or other period for which the Assessment was levied, the Assessment shall be prorated as of the date when said obligation first arose in proportion to the amount of the Assessment year or other period remaining after said date.

(C) Each unpaid Assessment together with such interest thereon and costs of collection thereof as hereinafter provided, shall be the personal obligation of the Owner of the Lot against which the Assessment falls due, and shall become a lien against each such Lot and all Improvements thereon. The Association may enforce payment of such Assessments in accordance with the provisions of this Article.

7.02 Maintenance Fund. The Board shall establish a maintenance fund into which shall be deposited all monies paid to the Association and from which disbursements shall be made in performing the functions of the Association under this Declaration. The funds of the Association must be used solely for purposes authorized by this Declaration, as it may from time to time be amended.

7.03 Regular Annual Assessments. Prior to the beginning of each fiscal year, the Board shall estimate the expenses to be incurred by the Association during such year in performing its functions under the Williams Creek Covenants, Conditions and Restrictions, including but not limited to the cost of all entry ways, landscaping, greenbelts, common areas, trails, median strip, and right-of-way maintenance, the cost of enforcing the Williams Creek

Residential Restrictions, and reasonable provisions for contingencies and appropriate replacement reserves, less any expected income and any surplus from the prior year's funds. Assessments sufficient to pay such estimated expenses shall then be levied as herein provided, and the level of Assessments set by the Board shall be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any individual Assessment, the Association may at any time, and from time to time levy further Assessments in the same manner as aforesaid. All such regular Assessments shall be due and payable to the Association on January 1<sup>st</sup> of each year. Assessments may be prorated at the discretion of the Board if a Lot is purchased during the year. No annual assessments shall be levied against the Declarant.

7.04 Special Assessments. In addition to the regular annual Assessments provided for above, the Board may levy special Assessments whenever in the Board's opinion such special Assessments are necessary to enable the Board to carry out its mandatory functions of the Association under the Williams Creek Covenants, Conditions and Restrictions. The amount and due date of any special Assessments shall be at the reasonable discretion of the Board.

7.05 Owner's Personal Obligation for Payment of Assessments. The regular and special Assessments provided for herein shall be the personal and individual debt of the Owner of the Lot covered by such assessments. Except as otherwise provided in Section 7.01(A) hereof, no Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any such Assessment, the Owner of the Lot shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from due date thereof (or if there is no such highest rate, then at the rate of 1-1/2% per month), together with all costs and expenses of collection, including reasonable attorney's fees.

7.06 Assessment Lien and Foreclosure. All sums assessed in the manner provided in this Article but paid, shall, together with interest as provided in Section 7.05 hereof and the cost of collection, including attorney's fees as herein provided, thereupon become a continuing lien and charge on the Lot covered by such Assessment, which shall bind such Lot in the hands of the Owner, and such Owner's heirs, devisees, personal representatives, successors or assigns. The aforesaid lien shall be superior to all other liens and charges against the said Lot, except only for tax liens and all sums unpaid on purchase money mortgage lien(s) or purchase money deed(s) of trust filed of record, securing in either instance sums borrowed for the acquisition or improvement of the Lot in question. The Association shall have the authority to subordinate the aforesaid Assessment lien to any other lien. Such authority shall be entirely discretionary with the Board and such subordination shall be effectuated by an officer of the Association, duly authorized by the Board. To evidence an Assessment lien, the Association may prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien, and a description of the Lot. Such notice shall be signed and acknowledged by an officer of the Association, duly authorized by the Board, and shall be recorded in the Official Records of Brazos County, Texas. Such lien for payment of Assessments shall attach with the priority above set forth from the date that such payment becomes delinquent, and may be enforced subsequent to the recording of a notice of Assessment lien as provided above, by the foreclosure of the defaulting Owner's Lot by the Association in like manner as a mortgage on real property, or the Association may institute suit against the

Owner personally obligated to pay the Assessment and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding the Owner shall be required to pay the costs, expenses, and reasonable attorney's fees incurred by the Association. The Association shall have the power to bid on the Property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the Association shall report to said Mortgagee the status of any Assessments relating to the Mortgagee's mortgage and remaining unpaid for longer than thirty (30) days after due.

## ARTICLE VIII. EASEMENTS

8.01 Installation and Maintenance. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, if any, no structure or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities; or in the case of drainage easements, which may change the direction of flow of water through drainage channels in such easements. The easement area of each Lot, if any, and all Improvements in such area shall be maintained continuously by the Owner of the Lot, except for those Improvements for which the easements herein or referred to shall be liable for any damages done by them or their assigns, agents, employees, or servants to shrubbery, streets or flowers or other property of the Owners situated on the land covered by said easements.

8.02 Surface Areas. The surface of easement areas for underground utility services may be used for planting shrubbery, trees, lawns or flowers. However, neither the Declarant nor any supplier of any utility service using any easement area shall be liable to any Owner or to the Association for any damage done by them or either of them, or their respective agents, employees, servants or assigns, to any of the aforesaid vegetation as a result of any activity reasonably relating to the construction, maintenance, operation or repair of any facility in any such easement area.

8.03 Drainage Easements. Each Owner covenants to provide easements for drainage and water flow, as contours of land and the arrangement of Improvements approved by the Architectural Control Committee thereon require. Each Owner further covenants not to disturb or displace any trees or other vegetation within the drainage easements as defined in this Declaration and shown on the Plat. There shall be no construction of improvements, temporary or permanent, in any drainage easement, except as may be approved in writing by the Architectural Control Committee.

8.04 Blanket Easement. An easement is hereby retained in favor of the Association over all Lots and the Common Area for the purpose of enforcing the Williams Creek Residential Restrictions in accordance with Section 5.04(E) hereof, and for the construction of a common cable television system, a common sprinkler system, maintenance of landscaping, or any other item for the common benefit of the Owners. An easement is further granted for the purpose of repairing and maintaining any such system so constructed. An entry upon any Lot or the Common Areas to effectuate the foregoing purposes shall not be deemed as trespass.

ARTICLE IX.  
MISCELLANEOUS

9.01 Term. This Declaration, including all of the covenants, conditions, and restrictions hereof, shall run until December 1, 2034, unless amended as herein provided. After December 1, 2034, this Declaration, including all such covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended as provided in Section 9.03 below or terminated by a written instrument executed by the Owners of at least three-fourths (3/4) of the Lots within the Property then subject to this Declaration, filed of record in the Official Records of Brazos County, Texas.

9.02 Dissolution. Upon termination of this Declaration in accordance with Section 9.01 above, the Association shall be dissolved. In the event of any such dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to any appropriate public agency to be used for purposes similar to those of the Association with respect to the Common Areas. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

9.03 Amendment.

(A) By Declarant. This Declaration may be amended by the Declarant, acting alone, until the Transition Date (defined in Section 5.03). No amendment by Declarant shall be effective until there has been recorded in the Official Records of Brazos County, Texas, an instrument executed and acknowledged by Declarant and setting forth the amendment, and an instrument executed and acknowledged by the Secretary of the Association, certifying that the Declarant had the requisite number of votes.

(B) By Owners. After the Transition Date (defined in Section 5.03), this Declaration may be amended by the recording in the Official Records of Brazos 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 Owners entitled to cast at least sixty percent (60%) of the number of votes entitled to be cast pursuant to Section 5.03 hereof.

9.04 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 (3<sup>rd</sup>) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person to the Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Association.

9.05 Severability; Construction. If it is found that any provision contained in this Declaration is in violation of any law, then such provision shall be interpreted to be as restrictive as possible to preserve as much of the original provision as allowed by law. The invalidity, illegality or unenforceability of any provision of this Declaration shall not affect any other term

or provision hereof and the terms and provisions hereof shall thereafter be construed as if such invalid, illegal or unenforceable term or provision had never been contained herein.

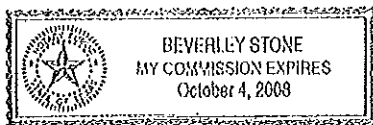
IN WITNESS WHEREOF, Declarant has executed this Declaration as of this 11<sup>th</sup> day of April, 2006.

JOHNSON INVESTMENTS, INC.

BY: Janet M. Johnson  
Name: JANET M. JOHNSON  
Title: Secretary

THE STATE OF TEXAS     §  
COUNTY OF BRAZOS     §

This instrument was acknowledged before me on the 11<sup>th</sup> day of April, 2006 by JANET M. JOHNSON, Secretary of JOHNSON INVESTMENTS, INC., a Texas corporation, on behalf of said corporation.



Beverley Stone  
Notary Public, State of Texas

EXHIBIT "A"

Williams Creek Subdivision - Phase 3  
77.695 Acres  
Nathan Clampitt Survey, A-90  
College Station, Brazos County, Texas

Field notes of a 77.695 acre tract or parcel of land, lying and being situated in the Nathan Clampitt Survey, Abstract No. 90, College Station, Brazos County, Texas, and being part of the called 211.14 acre tract described in the deed from Jean Stephen Family No. Two, L.P. to Joe and Janet Johnson Land and Investments, L.P., as recorded in Volume 6041, Page 136, of the Official Records of Brazos County, Texas, and said 77.695 acre tract being more particularly described as follows:

BEGINNING at the ½" iron rod found marking the southeast corner of Lot 17, Block 1 of Williams Creek Subdivision - Phase 2 according to the plat recorded in Volume 6745, Page 149, of the Official Records of Brazos County, Texas, in the north right-of-way line of Johnson Creek Loop;

THENCE N 00° 28' 42" E along the east line of the beforementioned Lot 17, Block 1, Williams Creek Subdivision - Phase 2, at a distance of 950.35 feet, pass a ½" iron rod found for reference, continue on for a total distance of 1000.35 feet to the center of Carter's Creek (old channel - minimum flow), same being the northeasterly line of the beforementioned 211.14 acre tract and same being the southwesterly line of the called 2366.04 acre tract described in Volume 1470, Page 88, of the Official Records of Brazos County, Texas;

THENCE along the average centerline of Carter's Creek (old channel - minimum flow), same being the northeasterly line of the beforementioned 211.14 acre tract and same being the southwesterly line of the beforementioned 2366.04 acre tract, as follows:

N 14° 57' 33" E	for a distance of 124.33 feet,
N 50° 29' 28" E	for a distance of 194.84 feet,
S 73° 54' 17" E	for a distance of 292.91 feet,
S 89° 47' 00" E	for a distance of 105.94 feet,
S 53° 18' 26" E	for a distance of 140.00 feet,
S 77° 50' 04" E	for a distance of 120.42 feet,
S 46° 02' 41" E	for a distance of 263.11 feet,
S 77° 54' 47" E	for a distance of 96.12 feet,
S 45° 30' 28" E	for a distance of 88.71 feet,
S 63° 29' 08" E	for a distance of 462.95 feet,
S 46° 56' 25" E	for a distance of 139.35 feet,
S 60° 52' 38" E	for a distance of 162.54 feet,
S 50° 28' 43" E	for a distance of 205.93 feet,
S 68° 50' 54" E	for a distance of 139.10 feet,
S 64° 51' 26" E	for a distance of 246.62 feet,
S 59° 38' 53" E	for a distance of 338.83 feet to the east corner of the 211.14 acre tract at the intersection of the center of a creek (tributary to Carter's Creek), same being the north corner of the Johnson - called 116.81 acre tract, Volume 6578, Page 220, of the Official Records of Brazos County, Texas;

THENCE along the meanders of said creek (tributary to Carter's Creek), same being the common line between the beforementioned 211.14 acre and 116.81 acre tracts, as follows:

S 54° 55' 35" W	for a distance of 18.58 feet,
S 29° 05' 39" E	for a distance of 8.54 feet,
S 15° 25' 45" W	for a distance of 7.37 feet,

Williams Creek Subdivision - Phase 3  
77.695 Acres  
Nathan Clampitt Survey, A-90  
College Station, Brazos County, Texas  
Continued - Page 2

S 71° 12' 10" W	for a distance of 17.94 feet,
S 38° 32' 01" W	for a distance of 22.18 feet,
S 38° 43' 46" E	for a distance of 17.39 feet,
S 15° 26' 25" W	for a distance of 25.69 feet,
N 84° 24' 15" W	for a distance of 21.02 feet,
S 05° 15' 36" W	for a distance of 23.17 feet,
S 82° 18' 12" W	for a distance of 20.45 feet,
S 19° 45' 48" E	for a distance of 15.82 feet,
S 89° 13' 48" W	for a distance of 10.45 feet,
S 65° 51' 29" W	for a distance of 30.38 feet,
N 15° 32' 14" W	for a distance of 17.62 feet,
N 49° 39' 38" W	for a distance of 16.24 feet,
S 66° 58' 09" W	for a distance of 17.43 feet,
N 26° 27' 22" W	for a distance of 14.53 feet,
N 19° 59' 28" E	for a distance of 11.53 feet,
N 58° 36' 30" W	for a distance of 30.87 feet,
S 89° 15' 30" W	for a distance of 18.71 feet,
N 54° 05' 30" W	for a distance of 28.85 feet,
N 21° 36' 15" W	for a distance of 13.22 feet,
S 50° 03' 51" W	for a distance of 8.58 feet,
N 61° 40' 55" W	for a distance of 48.37 feet,
N 23° 27' 07" W	for a distance of 8.36 feet,
N 69° 11' 21" W	for a distance of 43.18 feet,
N 79° 35' 16" W	for a distance of 32.31 feet to a point where said
	creek flattens out and becomes indistinct,
S 70° 36' 41" W	for a distance of 448.82 feet to a point where said
	creek becomes evident again,
S 27° 42' 00" W	for a distance of 11.78 feet,
S 17° 52' 56" W	for a distance of 10.54 feet,
S 05° 14' 22" E	for a distance of 8.67 feet,
S 46° 50' 57" E	for a distance of 23.87 feet,
N 75° 51' 24" W	for a distance of 21.30 feet,
S 28° 23' 05" W	for a distance of 29.86 feet,
S 45° 30' 44" W	for a distance of 19.61 feet,
S 30° 18' 45" W	for a distance of 8.90 feet,
S 31° 22' 36" E	for a distance of 7.47 feet,
S 06° 33' 47" E	for a distance of 11.40 feet,
S 28° 43' 29" W	for a distance of 6.94 feet,
S 55° 25' 09" W	for a distance of 29.86 feet,
S 79° 51' 40" W	for a distance of 9.79 feet,
N 86° 54' 50" W	for a distance of 12.43 feet,
N 37° 05' 39" W	for a distance of 4.45 feet,
S 81° 47' 27" W	for a distance of 7.57 feet,
S 68° 48' 49" W	for a distance of 10.98 feet,
S 48° 17' 12" W	for a distance of 13.55 feet,
S 71° 37' 44" W	for a distance of 18.01 feet,
S 81° 25' 03" W	for a distance of 7.85 feet,
S 58° 35' 21" W	for a distance of 11.88 feet,
S 11° 35' 46" W	for a distance of 11.51 feet,
S 06° 25' 43" W	for a distance of 8.06 feet,
S 34° 25' 38" W	for a distance of 9.73 feet,
S 36° 42' 01" W	for a distance of 11.95 feet,
S 48° 03' 30" W	for a distance of 24.23 feet,
S 25° 42' 38" W	for a distance of 7.58 feet,

S 16° 23' 16" W for a distance of 24.09 feet,  
S 02° 47' 22" E for a distance of 8.14 feet,  
S 18° 44' 16" E for a distance of 12.75 feet,  
S 15° 00' 26" W for a distance of 7.50 feet,  
S 42° 11' 57" W for a distance of 17.79 feet,  
S 49° 45' 47" W for a distance of 9.99 feet,  
S 88° 05' 07" W for a distance of 8.30 feet,  
S 81° 57' 42" W for a distance of 10.85 feet,  
S 52° 19' 29" W for a distance of 11.19 feet,  
S 09° 55' 05" E for a distance of 11.50 feet,  
S 37° 57' 45" E for a distance of 8.38 feet,  
S 57° 31' 37" E for a distance of 8.74 feet,  
N 89° 06' 27" E for a distance of 7.48 feet,  
N 67° 43' 01" E for a distance of 18.54 feet,  
S 89° 07' 08" E for a distance of 6.11 feet,  
S 26° 46' 07" E for a distance of 52.13 feet,  
S 11° 43' 38" E for a distance of 12.01 feet,  
S 44° 06' 00" W for a distance of 18.86 feet,  
N 81° 13' 52" W for a distance of 13.59 feet,  
N 40° 15' 56" W for a distance of 9.17 feet,  
N 17° 29' 02" E for a distance of 19.05 feet,  
N 61° 36' 30" W for a distance of 7.15 feet,  
S 66° 38' 34" W for a distance of 13.70 feet,  
S 16° 28' 45" W for a distance of 35.23 feet,  
S 26° 43' 12" E for a distance of 18.79 feet,  
S 48° 37' 22" E for a distance of 25.48 feet,  
S 34° 22' 09" E for a distance of 12.94 feet,  
S 22° 25' 02" W for a distance of 23.07 feet,  
S 19° 36' 48" E for a distance of 25.08 feet,  
S 59° 39' 36" E for a distance of 36.53 feet,  
S 46° 40' 44" W for a distance of 16.62 feet,  
S 30° 08' 23" W for a distance of 73.75 feet,  
S 37° 15' 18" E for a distance of 28.20 feet,  
S 72° 44' 58" E for a distance of 10.94 feet,  
S 14° 10' 53" E for a distance of 26.56 feet,  
S 15° 10' 37" W for a distance of 24.49 feet,  
S 05° 02' 18" E for a distance of 13.58 feet,  
S 08° 39' 09" W for a distance of 9.53 feet,  
S 57° 44' 51" W for a distance of 11.12 feet,  
S 57° 48' 34" W for a distance of 14.62 feet,  
S 26° 34' 00" W for a distance of 18.49 feet,  
S 49° 04' 38" W for a distance of 15.90 feet,  
S 32° 01' 24" W for a distance of 33.20 feet,  
S 36° 06' 54" E for a distance of 9.58 feet,  
S 60° 32' 48" E for a distance of 29.79 feet,  
N 66° 55' 54" E for a distance of 10.45 feet,  
S 20° 12' 40" E for a distance of 13.36 feet,  
S 25° 06' 18" W for a distance of 14.13 feet,  
S 44° 16' 41" W for a distance of 34.73 feet to the northeast

corner of Lot 47, Block 1, of Williams Creek  
Subdivision, Phase 4 according to the plat  
recorded in Volume 7118, Page 119, of the  
Official Records of Brazos County, Texas;

Continued - Page 4

THENCE along the north line of Block 1, Williams Creek Subdivision - Phase 4, as follows:

N 86° 00' 20" W	at a distance of 20.00 feet, pass a ½" iron rod found for reference, continue on for a total distance of 191.26 feet to a ½" iron rod found for angle point corner,
N 88° 34' 14" W	for a distance of 240.68 feet to a ½" iron rod found for angle point corner,
N 83° 19' 56" W	for a distance of 482.49 feet to a ½" iron rod found for angle point corner,
S 76° 01' 00" W	for a distance of 376.42 feet to a ½" iron rod found at the southeast corner of Lot 33, Block 1 of Williams Creek Subdivision - Phase 2 according to the plat recorded in Volume 6745, Page 149, of the Official Records of Brazos County, Texas;

THENCE along the easterly lines of the beforementioned Williams Creek Subdivision - Phase 2, as follows:

N 06° 39' 55" W	at a distance of 268.01 feet, pass a ½" iron rod found at the northeast corner of said Lot 33, Block 1, Williams Creek Subdivision - Phase 2, in the south right-of-way line of Johnson Creek Loop (70' right-of-way), continue on across said Johnson Creek Loop for a total distance of 338.01 feet and corner in the north right-of-way line of Johnson Creek Loop,
S 83° 20' 05" W	along the north right-of-way line of Johnson Creek Loop for a distance of 29.29 feet to a ½" iron rod found marking the southeast corner of Lot 20, Block 3, of Williams Creek Subdivision - Phase 2,
N 07° 27' 21" W	for a distance of 300.34 feet to a ½" iron rod found at the northeast corner of Lot 20,
S 84° 26' 29" W	for a distance of 237.15 feet to a ½" iron rod found at the southeast corner of Lot 7, Block 3, of Williams Creek Subdivision - Phase 2,
N 00° 52' 55" E	for a distance of 345.01 feet to a ½" iron rod found at the northeast corner of Lot 7, in the south right-of-way line of Johnson Creek Loop,
N 08° 12' 17" E	across Johnson Creek Loop for a distance of 70.00 feet and corner in the north right-of-way line of Johnson Creek Loop,
N 83° 47' 43" W	along the north right-of-way line of Johnson Creek Loop (70' right-of-way) for a distance of 9.54 feet to the PLACE OF BEGINNING, containing 77.695 acres of land, more or less.

Doc      Bk   Vol   Pg  
00922528   08   7251   191

Filed for Record in:  
BRAZOS COUNTY

On: Apr 12, 2006   at   03:42P

As a  
NO LABEL RECORRING

Document Number:    00922528

Amount                    131.00

Receipt Number - 288453

By:  
Susie Cohen

STATE OF TEXAS                    COUNTY OF BRAZOS  
I hereby certify that this instrument was  
filed on the date and time stamped hereon by me  
and was duly recorded in the volume and page  
of the Official Public records of:

BRAZOS COUNTY

as stamped hereon by me.

Apr 12, 2006

HONORABLE KAREN MCQUEEN, COUNTY CLERK  
BRAZOS COUNTY