

THE STATE OF TEXAS
COUNTY OF BRAZOS

DECLARATION
OF
EASEMENTS, RESTRICTIONS AND COVENANTS
FOR
STONE CREEK FARMS DEVELOPMENT
BY
SNS INVESTMENTS, LLC, A TEXAS LIMITED LIABILITY COMPANY

This DECLARATION is made as of the 13th day of April, 2004, by SNS INVESTMENTS, LLC, a Texas limited liability company (hereinafter referred to as the "DECLARANT"). The address of the Declarant is 1707 Graham Road, College Station, Texas 77845.

WHEREAS, Declarant declares that it is the OWNER of approximately 43.968 acres of real property situated in Brazos County, Texas, and more fully described in that certain plat of **Stone Creek Farms - Phase I**, filed in the Office of the County Clerk of Brazos County, Texas, at **Volume 5936, Page 287**, (said property being hereinafter sometimes referred to as the "**Restricted Property**"); and

WHEREAS, DECLARANT further declares that it desires that the Restricted Property, together with other real properties in the same general area which may subsequently be purchased, bought or acquired by Declarant for a similar purpose, be owned, held, sold, conveyed, transferred, leased, mortgaged, occupied, maintained, altered and improved subject to certain reservations, servitude, restrictions, covenants, charges, liens, easements and conditions as part of a general scheme of development of such properties as a balanced, planned community accommodating residential, and other land uses, and pursuant to a common and general plan for the benefit of Declarant and subsequent Owners and occupants of such properties in order to protect and enhance the quality, value and desirability thereof; and,

WHEREAS, Declarant further declares that it desires to provide for a non-profit corporation to own, hold, maintain and manage certain real properties in the vicinity of the Restricted Property of and to perform functions for the benefit of Owners and occupants of the Restricted Property, and to assist in the administration and enforcement of the

covenants, charges, liens, conditions and restrictions, hereby and hereafter established, and to promote the recreations, health, safety and welfare of the Owners and occupants of the Restricted Property;

NOW, THEREFORE, Declarant hereby declares that the Restricted Property shall be held, transferred, sold, conveyed, leased, occupied and used subject to the following reservations, servitude, restrictions, covenants, charges, liens, privileges, easements and conditions which are for the purpose of protecting the value and desirability of and which shall run with title to the Restricted Property and any other real property (collectively, the "STONE CREEK FARMS DEVELOPMENT") hereafter made subject to this Declaration, and which shall be binding on all parties having any right, title or interest in the real property made subject to this Declaration or any portion thereof, and their respective heirs, successors, successors-in-titles, assigns, and shall inure to the benefit of each Owner thereof and where provided herein, and shall benefit the Restricted Property and any additional property that is subsequently made subject to this Declaration.

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I.
DEFINITIONS

The following terms when used herein shall have the following meanings:

- 1.1 "Additional Land" shall mean any real property now or hereafter owned by Declarant that is contiguous with or in the general vicinity of the Restricted Property, all or any portion of which may from time to time be made subject to this Declaration by Declarant pursuant to the provisions of Section 2.2 of this Declaration. Notwithstanding anything contained in this Declaration to the contrary, the provisions of this Declaration shall not constitute an encumbrance upon or restrict the use of any portion of the Additional Land prior to the recording of an amendment to this Declaration by which such portion of the Additional Land is made subject to this Declaration pursuant to the provisions of Section 2.2 of this Declaration.
- 1.2 "Annexation" shall mean the act by which Additional Land is made subject to the terms of this Declaration.
- 1.3 "Articles of Incorporation" shall mean the articles of incorporation of the Association, as they may be amended, supplemented or modified from time to time.

- 1.4 **"Association"** shall mean SCF Association, Inc., a Texas non-profit corporation, doing business as Stone Creek Farms Home Owner's Association pursuant to Assumed Name Certificate filed with the Secretary of State of Texas on March 12, 2004, the members of which shall be the Owners.
- 1.5 **"Board of Directors"** or **"Board"** shall mean the board of directors of the Association as established in the By-Laws of the Association.
- 1.6 **"Bylaws"** shall mean the Bylaws of the Association, as they may be amended, supplemented or modified from time to time.
- 1.7 **"Committee"** shall mean and/or refer to the Architectural Control Committee established under the provisions of this document, its successors and assigns.
- 1.8 **"Common Area(s)"** shall mean all real property owned by the Association for the common use and enjoyment of the Owners, and any and all areas designated as Common Area on the Plat.
- 1.9 **"Declarant"** shall mean SNS Investments, LLC, and its successors and assigns. A Person or entity shall be deemed a successor and assign of SNS Investments, LLC, as Declarant only if such Person or entity is specifically designated in a duly recorded instrument as a successor and assign of Declarant under this Declaration, and shall be deemed a successor and assign of Declarant only as to the particular rights or interest of Declarant which are specifically designated in such written instrument. However, a successor to SNS Investments, LLC, by consolidation or merger, shall automatically be deemed a successor or assign of SNS Investments, LLC, as Declarant under this Declaration.
- 1.10 **"Declaration"** shall mean this instrument as it may be amended or supplemented from time to time as hereinafter provided.
- 1.11 **"Governing Documents"** shall mean in the case of the Association, this Declaration, the Supplementary Declaration (if any), and the Articles of Incorporation, Bylaws and Assumed Name Certificate of the Association, as the same may be amended from time to time and filed of record, if applicable. In the event of conflict or inconsistency between this Declaration and a Supplementary Declaration, the Supplementary Declaration shall control to the extent permitted by law.
- 1.12 **"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, fences, garages, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment, pumps, walls, tanks, reservoirs, pipes, meters, antennae, satellite dish, towers and/or other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, satellite tv antennas, and/or other utilities.
- 1.13 **"Lake"** shall refer to that certain Lake containing approximately 7 acres of land, more or less, and its dam designated in the 14.27 acre Common Area in Block One

- (1), Phase I, as described on the Plat. If Additional Land is annexed, any lakes located on the Additional Land shall be incorporated into this definition of "Lake."
- 1.14 "Lot" or "Parcel" shall mean and refer to a portion of the Restricted Property designated as a Lot on the Plat excluding streets, alleys and any Common Areas. Where the context requires or indicates, the term Lot shall include the Improvement and all other improvements that are or will be constructed on the Lot.
- 1.15 "Member" shall mean an Owner of a Lot in the Restricted Property. A Member shall be a member of the Association in accordance with the Bylaws of the Association.
- 1.16 "Notice" shall mean the form of notice provided in the Bylaws of the Association, or by law, from time to time, for meetings of members of Texas non-profit corporations; provided that, if more than one Person is the Owner of a Lot, Notice to one such Owner shall constitute Notice to all such Owners.
- 1.17 "Owner(s)" shall mean and refer to the record Owner, whether one (1) or more Person(s) or entities of the fee simple title to any Lot in the Subdivision, or any part or interest therein. Owner shall not mean or refer to any mortgagee, under any applicable theory of a mortgage, unless and until such mortgagee has acquired legal title pursuant to foreclosure or any proceeding in lieu of foreclosure. The term Owner shall further include any Person or entity claiming title to any Lot or portion thereof by adverse possession, any Person or entity leasing, renting or otherwise occupying any Lot or part thereof, and/or any Person or entity claiming interest in a Lot or part thereof under a contract of sale.
- 1.18 "Person(s)" shall refer to any natural Person, individual(s), and/or any other entity unless the context indicates otherwise having the legal right to hold title to real property.
- 1.19 "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, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, elevation drawings, floor 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.
- 1.20 "Plat" shall mean any map or final plat of the Restricted Property or, if applicable, any Additional Land, filed in the Office of the County Clerk of Brazos County, Texas. The Plat of **Stone Creek Farms - Phase I** has been filed in the Office of the County Clerk of Brazos County, Texas, at **Volume 5936, Page 287**.
- 1.21 "Related User" shall mean a Member's guest or invitee.
- 1.22 "Stone Creek Farms Development" shall mean the Restricted Property and any Additional Land.
- 1.23 "Subdivision" shall mean the Restricted Property and any Additional Land.

- 1.24 **"Supplementary Declaration"** shall mean a recordable instrument, complying with the terms of this Declaration, by which Additional Land is annexed into the Subdivision; or by which the covenants, conditions, restrictions, of this Declaration are amended as provided for herein; or by which any other legal purpose is accomplished as it relates to the imposition, enforcement or modification of this Declaration.
- 1.25 References to the singular shall include the plural, and the plural shall include the singular.
- 1.26 Capitalized terms used in this Declaration shall have the meaning given such terms in this Article I.

II.
SUBJECT PROPERTIES

- 2.1. Existing Property. The real property which, as of the date of this Declaration, is and shall hereafter be owned, held, transferred, sold, conveyed, leased, mortgaged, used, occupied, maintained, altered, and improved subject to this Declaration is the property described on the **Plat of Stone Creek Farms - Phase I which has been filed in the Office of the County Clerk of Brazos County, Texas, at Volume 5936, Page 287.**
- 2.2. Annexation by Supplementary Declaration. Declarant may, but shall in no way be required to, from time to time, within twenty (20) years of the date of this Declaration, unilaterally make subject to this Declaration all or any portion of the Additional Land designated by the Declarant and specifically made subject to the terms of this Declaration by a Supplementary Declaration filed of record in the Office of the County Clerk of Brazos County, Texas, said Supplementary Declaration to be in conformity with the provisions of this Section 2.2 as set forth below:
 - (a) Real Property within the Additional Land shall become part of the Stone Creek Farms Development, effective upon the recording in the Office of the County Clerk of Brazos County, Texas, a Supplementary Declaration meeting the requirements hereinafter set forth.
 - (b) A Supplementary Declaration (i) shall be executed and acknowledged by the owner of the Additional Land described therein; (ii) shall, if the Additional Land is not then owned by Declarant, contain the executed and acknowledged written consent of the Declarant for so long as the Declarant owns any property within the Additional Land and has the power to annex additional property into the Stone Creek Farms Development; (iii) shall contain an adequate legal description of such Additional Land; (iv) shall contain a reference to this Declaration (and any amendments thereto) which shall state its date of recording and recording information; (v) shall state the land classification (residential, commercial or other classification) of such Additional Land; (vi) shall contain a statement that such Additional Land is declared to be part of the Stone Creek Farms Development under this Declaration and that such Additional Land shall be subject to this Declaration; and (vii) with respect to the Additional Land, shall describe any

additional, supplementary or modified restrictions, covenants, conditions, easements, encumbrances or other matters affecting the Additional Land.

(c) The Declarant may record multiple Supplementary Declarations in compliance with this Section 2.2 for so long as the Declarant has authority hereunder to annex Additional Land.

(d) Notwithstanding any provision of this Declaration, or any Supplementary Declaration to the contrary, the Declarant may provide as a part of any Supplementary Declaration that the Additional Land thereby annexed may be benefited by improvements, amenities or other common area facilities to the exclusion of the then existing Owners of property in the Subdivision; and further, that the Additional Land thereby annexed may be subject to additional or supplementary assessments, charges or fees collected solely for the use and benefit of the Additional Land thereby annexed.

(e) A Supplementary Declaration may impose upon such Additional Land described therein covenants, conditions, restrictions, limitations, reservations, exceptions and equitable servitude in addition to the provisions set forth in this Declaration, taking into account the unique and particular aspects of the proposed development of such Additional Land; provided, however, unless in compliance with the provisions of this Declaration concerning amendments and modifications, in no event shall any Supplementary Declaration revoke, modify or amend the covenants or restrictions established by this Declaration or any other Supplementary Declaration for any other property then comprising a part of the Stone Creek Farms Development or revoke (so as to terminate) the provisions of the covenants or restrictions established by this Declaration as to such Additional Land.

(f) A deed by which Declarant conveys a Parcel, including property comprising Common Area, to another Person, may constitute a Supplementary Declaration if it meets the foregoing requirements, as applicable.

III.

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

- 3.1. **Membership.** Lot ownership and membership in the Association shall be inseparable. Transfer of a Lot automatically transfers membership in the Association and all rights of the transferor with respect to the Common Areas and facilities to which ownership of such Lot relates.
- 3.2. **Determination of Voting Rights.** Declarant shall be entitled to nine (9) votes for each Lot owned by Declarant. If Declarant hereafter annexes Additional Land pursuant to the terms of this Declaration, but such land has not been subdivided or platted, Declarant shall be entitled to nine (9) votes for each full acre of such Additional Land so annexed. Every Owner other than the Declarant shall be entitled to one (1) vote for each Lot owned.
- 3.3. **Multiple Owners of a Lot.** When more than one (1) Person owns an interest in a Lot, all such Persons shall be Members, however, there shall be but one vote for

each Lot owned by Members other than Declarant. The vote for such Lot shall be exercised as the Owners of a Lot among themselves determine, but in no event shall more than one vote be cast with respect to any Lot, and the Association shall be entitled to rely on the vote cast by any one of the Owners of a Lot without further verification of the authority of such Owner.

- 3.4 Appointment of members of Board of Directors. Declarant shall have the power to elect all members of the Board of Directors and to fill any vacancies occurring therein until the later of (i) **January 1, 2014** or (ii) the date on which ninety-five percent (95%) of the Lots, by number as opposed to area, in both the Restricted Property and the Additional Land have been conveyed to third parties ("**Control Transfer Date**"). Once the Control Transfer Date has occurred, the membership of the Board of Directors shall be determined by a majority vote of the voting rights (as determined in Section 3.2 above). Notwithstanding the above, Declarant reserves the right to relinquish its powers as described above in this paragraph, upon giving written Notice to the Board of Directors.
- 3.5. Members' Rights of Enjoyment. Every Member shall have a beneficial interest of use and enjoyment in and to the Common Areas and such right shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:
- (a) the right of the Association, with respect to any facilities situated upon the Common Area, to limit the number of guests of Members, or to otherwise adopt, amend or modify the rules and regulations applicable to the use of the Common Area;
- (b) the right of the Association to suspend the Member's voting rights and the Member's and "Related User's" (as hereinafter defined) right to use any facilities situated upon the Common Area during any period in which the maintenance charge or any assessment against his Lot remains unpaid; and
- (c) the right of the Association to suspend the Member's voting rights and the Member's and Related User's right to use any facilities situated upon the Common Area, after Notice and hearing by the Board of Directors, for the infraction of violation by such Member or Related User of this Declaration or the other rules and Regulations established for the Stone Creek Farms Development, which suspension shall continue for the duration of such infraction or violation, plus a period not to exceed sixty (60) days following the cessation or curing of such infraction or violation.

IV.
COMMON AREAS AND SERVITUDES

- 4.1 Common Area. Declarant contemplates that from time to time the Association will acquire Common Area consisting of portions of land, or land with improvements thereon, or rights arising out of grants of the Owners, easements, covenants, conditions and building restrictions established either by acts of transfer and conveyance, this Declaration, or by Supplementary Declarations, (but only to the extent herein specifically provided for). Declarant further contemplates that

recorded plats of portions of the Stone Creek Farms Development may provide for the installation, repair, maintenance and replacement of utility and drainage facilities, walkways and planting in areas which may be designated on such plats as Common Area or easements, and within ten (10) feet of the right-of-way of all streets within the Stone Creek Farms Development for the installation, repair, maintenance and replacement of utility and drainage facilities, walkways and planting in areas which may be designated on such Plats as Common Area or easements, and within ten (10) feet of the right-of-way of all streets within the Stone Creek Farms Development for the installation, repair, maintenance and replacement of street lighting and trees, together with associated rights of ingress and egress, all or some of which easements may be acquired by the Association as Common Area. Declarant declares and acknowledges that it is the intent hereof that such Common Area shall be owned and held by the Association for the common use and enjoyment of the Stone Creek Farms Development and the Owners and occupants thereof, for the purposes set forth in the Governing Documents by the Association, among others, environmental conservation, storm water management, recreation, landscaping and beautification, and related activities. As and to the extent permitted by law and subject to the provisions of this Declaration, the use and enjoyment of Common Area may be subject to the right of the Association to charge reasonable fees for the use of any service or facility of the Association associated with the Common Area, to enforce the collection of such fees by the suspension of use or otherwise, and to transfer or dedicate all or part of such Common Area to any public agency, authority or utility on such terms and subject to such conditions as the Association may deem appropriate.

V.
ASSESSMENTS

- 5.1 Creation of Annual Maintenance Charge. The initial annual maintenance fee ("Maintenance Charge" or "Annual Assessment") shall be **FOUR HUNDRED FIFTY AND NO/DOLLARS (\$450.00)** per Parcel, payable in advance by the Owner of each Parcel on the first day of January of each year, beginning **2005** and each succeeding year thereafter until terminated as provided below, to the Association, its successors and assigns, for the purpose of creating a fund described below, known as the "**Maintenance Fund**". Where any Parcel is owned by more than one Person or entity, said maintenance charge shall be payable by all such Owners, jointly and severally. The Maintenance Charge shall be prorated between purchasers and sellers of Parcels in the proportion that the remaining months of the calendar year bear to the whole year. By acceptance of a deed or other instrument of conveyance, or by any other claim of legal title to any Parcel or portion thereof, each Owner agrees and consents to the Maintenance Charge and the liens as provided herein. The Maintenance Charge shall be paid for each year and shall be extended automatically for successive periods of ten (10) years unless before December 31, 2014, or before the 31st day of December of any tenth year thereafter, the Owners of record of a majority of the Parcels in the Subdivision vote to discontinue such charge by written instrument which shall be signed and acknowledged by the Owners of record of a majority of the Parcels and recorded in the Official Records of Brazos County, Texas. In no event or circumstance will

Declarant be liable for any Annual Assessment on any Lot or portion of the Restricted Property or the Additional Land owned by Declarant.

(a) Liens. The Association shall have a lien against any Parcel for which the annual Maintenance Charge provided herein shall not be paid effective upon the thirtieth (30th) day following the date said Maintenance Charge became due and payable. The amount of said lien shall be for the amount of the Maintenance Charge then due, owing and unpaid plus an additional delinquency charge of twelve percent (12%) per annum of the unpaid balance accruing from the date said Maintenance Charge became due and payable. The Association shall have the right to evidence the existence of this lien by filing a sworn and acknowledged statement of lien in the Office of the County Clerk of Brazos County, Texas, but the failure of the Association to so file a statement of lien shall not affect the validity of the lien as between the Association and the Owner.

(b) Purpose and Uses of Maintenance Fund. The Maintenance Charge shall be used to pay "maintenance expenses" which shall include without limitation expenses incurred for any of the following purposes: Lighting, constructing, improving and maintaining any rights-of-way, easements, streets, sidewalks, paths, fences, parkways, mowing and/or maintaining the Common Areas and all Landscape Easements, specifically including the upkeep of the Lake, including, but not limited to, maintaining the quality and upkeep of the fish and water quality in the Lake, and any structures, facilities or area which can be used by all Owners which in the opinion of the Association would benefit the Subdivision as a whole; collecting and disposing of garbage, ashes, rubbish and the like in said areas (other than garbage, ashes, rubbish and the like from constructed residential dwellings), caring for vacant Parcels, subsidizing bus or transportation service, employing watchmen or any other action deemed desirable to protect Persons and property, payment of legal and all other expenses in connection with the operation of the Association, and the enforcement of all recorded charges, restrictions, covenants, agreements and conditions affecting property to which Maintenance Charges apply, payment of all expenses in connection with the collection and administration of the Maintenance Charges, and doing any other things necessary and desirable in the opinion of the Association to keep property neat and in good order of which it considers of general benefit to the Subdivision. The act of the Association and its expenditures of the Maintenance Fund shall be final so long as it acts in good faith.

(c) Specific Individual Assessments. Upon the affirmative majority vote of the Board of Directors of the Association, and subject to Chapter 209 of the Texas Property Code, the Association may levy "Specific Individual Assessments" against individual Members of the Association for (i) reimbursement to the Association for repairs to the Common Area or the Area of Common Responsibility or Improvements thereto, occasioned by the willful or negligent acts of such Member(s), or the family members, guests, invitees or occupants of such Member(s), and not the result of ordinary wear and tear; (ii) expenses (including overhead and administrative costs) relating to maintenance, repair and improvement of the Common Areas; (iii) reimbursement to Declarant for any reserves, deposits or insurance required by Brazos County, Texas, or any other local, state or federal governmental entity relating to the Common Areas; (iv) payment of fines, penalties or other charges imposed against an individual or

separate Member relative to the failure of such Member or such Member's family members, guests, invitees or occupants to comply with the provisions of this Declaration, any applicable SUPPLEMENTAL Declaration, the Bylaws or any rules or regulations promulgated hereunder, including, without limitation, any costs and charges which are payable by such Member pursuant to Section 5.1(c). Each Member of the Association agrees to pay any Special Individual Assessment levied by the Association in accordance with this Section 5.1 (d). All such Special Individual Assessments shall be paid by the Members of the Association directly to the Association (or to any entity or collection agency designated by the Association). In no event or circumstance will Declarant be liable for any Specific Individual Assessments on any Lot or portion of the Restricted Property owned by Declarant.

(d) From and after January 1, 2005, the Association's Board of Directors, at its next annual or special meeting and at each annual meeting thereafter, shall set the amount of the Annual Assessments for each year for each Lot, taking into consideration the current maintenance costs and future needs of the Association; except, however, the monthly assessments may not be increased in any one year by more than twenty percent (20%) of the then existing Annual Assessment, except on the affirmative vote of Owners entitled to cast two-thirds (2/3) of the votes of the Association, in person or by proxy at a meeting duly called for such purposes.

5.2 In addition to the Annual Assessments for maintenance charges authorized above, the Association may levy in any assessment year, "**Special Assessments**" applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of a three-fourths (3/4) majority of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose. Written Notice of a meeting called for this purpose shall be sent to all Members not less than thirty (30) days or more than fifty (50) days in advance of the meeting setting forth the purpose of the meeting and the proposal to be voted on.

(a) No Special Assessments for capital Improvements shall be made under this provision prior to the time when the membership of the Board of Directors of the Association is determined by majority vote of the land Owners of record subject to the Maintenance Charge as hereinabove set forth.

(b) The Special Assessments shall be payable by the Owners on the dates and terms as may be established by the Association. The Association may also provide for a lien against any Parcels for which the Special Assessment remains unpaid.

5.3 The lien of the assessments provided for herein shall be subordinate to the lien of any duly recorded purchase money or first mortgage note upon the Lot subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure or non-judicial foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such

Lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

- 5.4 The Common Area shall be exempt from the Maintenance Assessments, Special Assessments and all other charges and assessments created herein.
- 5.5 Declarant shall not be liable or in any way responsible for the payment of any Maintenance Charge, Annual Assessment, Special Assessment or any other charges and assessments created herein.

VI.
ARCHITECTURAL CONTROL

- 6.1 There is hereby created the Architectural Control Committee that shall initially consist of three (3) members. **The Initial Architectural Control Committee shall be appointed by the Declarant, and the members of the Committee shall be identified on the Subdivision's Management Certificate to be filed in the real property records of Brazos County, Texas.** A majority of the Committee may designate representatives to act for it. In the event of the death or resignation or failure to serve by any Member of the Committee, the remaining Members shall have full authority to designate a successor. Neither the Members of the Committee nor its appointed representatives shall be entitled to any compensation for services rendered pursuant to this covenant. After ten (10) years from the date of this instrument, or at such earlier time as the majority of the Committee shall determine the power to designate Members of the Committee shall automatically pass to the Association. The Committee's approval or disapproval as required by the restrictions shall be in writing.
- 6.2 No Improvement of any kind shall be erected, placed or altered in the exterior design after being erected or placed on or attached to any Parcel in the Subdivision until a written request by the Owner is made and accompanied by the construction plans, landscaping plans, or other plans, specifications and a plot plan showing the location and size of such Improvement have been submitted to the Committee in duplicate, or its designated representatives as to the harmony of external design with the existing structures on Parcels in the Subdivision, as to type of exterior materials and exterior paint colors, as to quality of workmanship and materials, and as to locations with respect to topography and finished ground elevations, and compliance with all applicable provisions of this document, and general compatibility within the Subdivision. Improvements used herein shall include, but not be limited to, building(s), fences, towers, antennas, porches, decks, walls, swimming pools, water wells, playground equipment, outdoor cooking or eating facilities of a permanent nature, docks, piers, barns, silos, cages, sheds, streets, alleys, excavations and other earth movement. The Committee may require a reasonable fee for performing the functions herein prescribed and may disapprove Plans, specifications, designs, and Plans for failure to pay such fee. Such fees shall be used by the Committee to discharge actual expenses incurred by the Committee. After approval in writing has been given, the erecting, placing or altering of the Improvements on any Parcel shall be made only in accordance with the approved Plans, specifications and plot Plans, unless variations or changes are also approved in the same manner.

- 6.3 Neither Declarant, nor the Members of the Committee, representatives, and/or their successors or assigns, shall be liable in damages to anyone submitting Plans to them for approval, or to any Owner of any Parcel affected by this Declaration, by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any Plans submitted. Every Person who submits Plans to the Committee for approval agrees by submission of such Plans, and every Owner of any Parcel within the property agrees, by acquiring title thereto or interest therein, that he will not bring any action or suit against Declarant, the Members of the Committee, or its representatives, to recover any such damages.
- 6.4 At the option of a majority of the Committee, all of the powers, rights, duties and responsibilities of said Committee may be transferred to the Association. In such event the Association shall appoint a representative or representatives to perform all functions of the Committee. Said representative or representatives shall be the successor of the Committee.
- 6.5 Basic Control. No building or other Improvements of any character shall be erected or placed, or the erection or placing thereof commenced, or changes made in the design or exterior appearance thereof (including, without limitation, painting, staining or siding), or any addition or exterior alteration made thereto after original construction, or demolition or alteration by voluntary action made thereto after original construction, on any land within the Stone Creek Farms Development, including, without limitations, the Common Area, until the obtaining of the necessary approval from the Committee of the construction Plans and Specifications for the construction or alteration of such Improvements or demolition or destruction of existing Improvements by voluntary action. Approval shall be granted or withheld based on matters of compliance with the provisions of this Declaration and any Supplementary Declaration, quality and color of materials, drainage, harmony of external design and color with existing and proposed structures and location with respect to topography and finished grade elevation, so as to (i) promote those qualities of the environment which enhance the value of the Lots in the Stone Creek Farms Development, (ii) foster the attractiveness and functional utility of the Stone Creek Farms Development as a place to live and work, and (iii) foster a harmonious relationship among structures, vegetation and topography and the overall design of the Stone Creek Farms Development.
- 6.6 Minimum Construction Standards: Inspections. The Committee may from time to time promulgate an outline of minimum acceptable construction standards; provided, however, that such outline will serve as a minimum guideline only and such Committee shall not be bound thereby. In order to control the quality of construction and to reasonably insure that all residential construction (including the construction of the residence and all other Improvements on the Lot) are constructed in accordance with (a) the Plat, (b) this Declaration, (c) Brazos County and other governmental regulation, (d) minimum acceptable constructions standards as promulgated from time to time by the Committee, and (e) Committee regulations and requirements, the Committee may conduct certain building inspections and the Owner, in the construction of all Improvements shall hereby be

subject to such building inspections and building inspection policies and procedures as established from time to time by the Committee. A fee (subject to change from time to time by action of the Committee) may be paid by all Owners to the Committee prior to architectural approval, or at such other time as designated by the Committee, to defray the expense of such building inspections and reinspections.

- 6.7 Variations. The Committee may authorize variances from compliance with any provisions of the Declaration (except for the provisions relating to residential use) or minimum, acceptable construction standards or regulations and requirements as promulgated from time to time by the Committee, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require a variance. Such variances must be evidenced in writing and shall become effective when signed by the Declarant or by at least a majority of the Members of the Committee. If any such variances are granted, no violations of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance is granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of the Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall the granting of any variance affect in any way the Owner's obligations to comply with all governmental laws and regulations affecting the property concerned and the Plat.
- 6.8 Notices of Completion and Noncompliance. Each Owner shall send a written Notice of the completion ("**Notice of Completion**") of such Owner's construction of Improvements to the Committee and to the Association within fifteen (15) days after completion of such Owner's construction. If, as a result of inspections or otherwise, the Committee, at any time following the commencement of construction of Improvements, finds that any construction (a) has been done without obtaining the approval of the Committee, (b) was not done in conformity with the approved Plans AND Specifications and plot plan or (c) is not being prosecuted in the manner required by this Declaration and applicable construction guidelines, the Committee shall notify the Owner in writing of the noncompliance, which Notice ("**Notice of Noncompliance**") shall be given, in any event, within sixty (60) days after the Committee receives a Notice of Completion. The Notice of Noncompliance shall specify the particulars of the noncompliance and shall require the Owner to take such action as may be necessary to remedy the noncompliance. If for any reason other than Owner's act or neglect, the Committee fails to notify the Owner of any noncompliance within sixty (60) days after receipt by the Committee and the Association of the Notice of Completion, the Improvements constructed by such Owner on the Lot or other land within the Stone Creek Farms Development shall be deemed in compliance with Plans and Specifications approved by the Committee if such Improvements were, in fact, completed as of the date of the Notice of Completion. If, however, the Committee issues a Notice of Noncompliance, the Owner shall commence to correct the noncompliance without delay. If the Owner does not correct the noncompliance within forty-five (45) days after receipt of the Notice of Noncompliance or commence, within ten (10) days after receipt of the Notice of Noncompliance, the correction of such noncompliance in the case of noncompliance which cannot reasonably be expected to be corrected within forty-five (45) days (provided that such Owner diligently continues the removal of such

noncompliance) the Board may, at its option, record a Notice of Noncompliance against the Lot or other land within the Stone Creek Farms Development on which the non-compliance exists, and/or may otherwise remove or correct such non-compliances (including, without limitation, removing any Improvements which are not completed within one (1) year following the commencement of construction, subject to Excused Delays, and any such action by the Board or by representatives of the Board shall not constitute trespass, conversion or otherwise result in the imposition of liability against the Committee, Board or designated representative of the Board who removed such Improvements) and the Owner shall reimburse the Association, upon demand, for all expenses incurred wherewith, which reimbursement obligation shall constitute a Reimbursement Assessment and shall be in addition to all other rights and remedies which the Board may have at law, in equity, or under this Declaration to cure such noncompliance.

- 6.9 No Implied Waiver or Estoppel. No action or failure to act by the Committee or by the Board shall constitute a waiver or estoppel with respect to future action by the Committee or Board with respect to the construction of any Improvements within the Stone Creek Farms Development. Specifically, the approval by the Committee or Board of any such construction shall not be deemed a waiver of any right or an estoppel to withhold approval or consent for any similar construction or any similar proposals, plans, specifications or other materials submitted with respect to any other construction by such Person or other Owners.
- 6.10 Disclaimer. No approval of Plans and Specifications and no publication or designation of architectural standards shall ever be construed as representing or implying that such plans, specifications or standards will result in a properly designed structure or satisfy any legal requirements. No Person exercising any prerogative of approval or disapproval shall incur any liability by reason of the good faith exercise thereof. Further, neither Declarant, the Association nor the Committee shall be responsible or liable for any defects in any Plans and Specifications submitted, revised, or approved pursuant to the terms of this Article VI, any loss or damage to any Person arising out of the approval or disapproval of any plans or specifications, any loss or damage arising from the noncompliance of such Plans AND Specifications with any governmental ordinances and regulations, nor any defects in construction undertaken pursuant to such approved Plans and Specifications.
- 6.11 Inspection of Work. Notwithstanding anything contained herein to the contrary, the Committee or its duly authorized representative shall have the right to inspect any Improvement before or after completion, provided that the right of inspection shall terminate sixty (60) days after the Committee shall have received a Notice of Completion from the Owner.

VII.

DECLARANT'S RIGHTS and RESERVATIONS

- 7.1 Period of Declarant's Rights and Reservations. Declarant shall have, retain and reserve certain rights as hereinafter set forth with respect to the Association and the Common Area from the date hereof, until the earlier to occur of (i) the Control Transfer Date or (ii) Declarant's written Notice to the Association of Declarant's

termination of the rights described in Article VII hereof. The rights and reservations hereinafter set forth shall be deemed excepted and reserved in each conveyance of land by Declarant to an Owner whether or not specifically stated therein and in each deed or other instrument by which any land within the Common Area is conveyed by Declarant. The rights, reservations and easements hereinafter set forth shall be prior and superior to any other provisions of the Declaration and may not, without Declarant's prior written consent, be modified, amended, rescinded or affected by any amendment of the Declaration. Declarant's consent to any one such amendment shall not be construed as consent to any other or subsequent amendment.

- 7.2 Right to Construct Additional Improvements in Common Area. Declarant shall have and hereby reserves the right (without the consent of any Owner or the Association), but shall not be obligated, to construct additional Improvements within the Common Area at any time and from time to time in accordance with this Declaration for the Improvement and enhancement hereof and for the benefit of the Association and Owners. Declarant shall convey or transfer such Improvements to the Association and the Association shall be obligated to accept title to, care for and maintain the same as elsewhere provided in this Declaration.
- 7.3 Declarant's Rights to Use Common Area in Promotion and Marketing of the Stone Creek Farms Development and Additional Land. Declarant shall have and hereby reserves the right to reasonable use of the Common Area and of services offered by the Association in connection with Declarant's promotion and marketing of land within the boundaries of the Stone Creek Farms Development and Additional Land. Without limiting the generality of the foregoing, Declarant may erect and maintain on any part of the Common Area such signs, temporary buildings and other structures as Declarant may reasonably deem necessary or proper in connection with the promotion, development and marketing of land within the Stone Creek Farms Development and Additional Land; may use vehicles and equipment within the Common Area for promotional purposes; and may permit prospective purchasers of property within the boundaries of the Stone Creek Farms Development and Additional Land, who are not Owners or Members of the Association, to use the Common Area at reasonable times and in reasonable numbers; and may refer to the services offered by the Association in connection with the development, promotion and marketing of the Stone Creek Farms Development and Additional Land.
- 7.4 Declarant's Rights to Complete Development of the Stone Creek Farms Development. No provision of this Declaration shall be construed to prevent or limit Declarant's right (or require Declarant to obtain any approval) to (i) complete development of the real property within the boundaries of the Stone Creek Farms Development and Additional Land; (ii) construct, alter, demolish or replace Improvements on any real property owned by Declarant within the Stone Creek Farms Development or Additional Land; (iii) post signs incidental to development, construction, promotion, marketing, sales or leasing of property within the Stone Creek Farms Development and Additional Land; (iv) excavate, cut, fill or grade any property owned by Declarant; (v) require Declarant to seek or obtain the approval of the Committee or of the Association for any such activity or Improvement to property by Declarant on any property owned by Declarant. Nothing in this Article

VII shall limit the reserved rights of Declarant as elsewhere provided in the Declaration.

- 7.5 Declarant's Rights to Convey Additional Common Elements to the Association. Declarant shall have and hereby reserves the right, but shall not be obligated to, convey additional real property and Improvements thereon, if any, to the Association as Common Area at any time and from time to time in accordance with this Declaration, without the consent of any other Owner or the Association.
- 7.6 Reservations. In so authenticating the Plat for record and in so dedicating the use of the streets (whether such thoroughfares are referred to as drives, avenues, roads, lanes, ways, parkway, boulevards or streets) as shown thereon to the public for ordinary roadway purposes only, there was reserved and there is hereby expressly reserved in Declarant the following rights, titles and easements (hereinafter collectively called "**Reservations**"). Reservations used herein shall be referred to as a part of and construed as being adopted in each and every contract of sale, deed or instrument of conveyance executed or to be executed by or on behalf of Declarant conveying any property in the Subdivision as any part thereof:
- (a) The legal and fee simple title in and to each and all of said streets as shown on said map or plat is hereby reserved in Declarant subject to the limited dedication of the use of streets, not marked as private by the letters "Pvt." to the public for ordinary roadway purposes only.
- (b) Declarant reserves itself, its successors or assigns, a perpetual nonexclusive easement to lay, construct, operate, maintain, inspect, repair, reconstruct, multiply, change the size of and remove such water, sanitary sewer and storm pipes, gas pipes, mains and conductors and all appurtenances thereto relevant to the operation of waterworks, sanitary sewer, storm sewer and/or drainage systems as it may from time to time desire, in, along, under, over, across and through all of the streets, both public and private, in the Subdivision, rights of way depicted on the Plat and any easements or rights of way depicted on the Plat. Such pipes, mains and conductors, lines, wires, conduits and appurtenances shall be buried to such reasonable depths as will not interfere with the use of the streets for ordinary roadway purposes.
- (c) Declarant reserves for itself, its successors and assigns, title in and to all water, sanitary sewer, storm sewer, drainage pipes, gas pipes, mains and conductors, all appurtenances thereto; and all electric distribution, communication lines, wires, conduits and all appurtenances thereto constructed by Declarant or its agents in all of said streets in the Subdivision, together with a perpetual easement to operate, maintain, inspect, repair, reconstruct, change the size of and remove such pipes, mains and conductors, lines, wires, conduits and appurtenances thereto, as it or they may from time to time desire.
- (d) Declarant reserves for itself, its successors and assigns, a perpetual utility easement in, along, under, over, across, and through a twenty (20) foot strip around the entire perimeter of each Parcel in Block One (1) and Block Two (2) of the Subdivision and a variable width strip around the entire perimeter of each Parcel in Block Three (3) of the Subdivision, all being more fully described on the

Plat. Additionally, Declarant reserves for itself, its successors and assigns, a perpetual utility easement along, under, across and through a ten (10) foot strip along the northeast property line of the Subdivision, such northeast property line being that property line adjoining and adjacent to Easterling Estates Subdivision as evidenced by plat recorded in the Official Records of Brazos County, Texas at Volume 4584, Page 75. The above-referenced strips shall be measured from the property line of each Parcel inward. With respect to such easement, Declarant shall have the right to construct, operate, maintain, inspect, reconstruct, multiply, change the size of and remove such utility lines and facilities (including without limitation of the generality thereof, water, sanitary sewer, storm sewer, drainage pipes, gas pipes, mains and conductors, and all appurtenances thereto; electric distribution and communication lines, wires, conduits, guy wires, poles, connections and all appurtenances thereto), as it or they may from time to time desire, together with the right of ingress and egress thereto. The utility easements hereby reserved are easements in the above described widths at and below normal ground level, extending upward to a plane one hundred twenty feet (120') in height, extending five feet (5') in width adjacent to and on both sides of the utility easements on each Parcel. Declarant further reserves the exclusive right to grant franchises and easements to other utility owners to lay, construct, operate, maintain, inspect, reconstruction, change the size of, multiply and remove such utility lines, as described above, in such utility easements. These utility easements are not dedicated to the public in any manner.

(e) Declarant further reserves for itself, its successors and assigns, a perpetual Landscape Easement along certain streets, both public and private, including along Texas FM 1179 and on Stone Creek Drive and a thirty (30') foot Landscape Easement along the northeast property line in the Subdivision, such northeast property line being that property line adjoining and adjacent to Easterling Estates Subdivision as evidenced by plat recorded in the Official Records of Brazos County, Texas at Volume 4584, Page 75, as may be more fully described on the Plat or otherwise, for the purposes of maintaining, improving, mowing, watering, and any and all other items Declarant or the Association deems in the best interest of the Subdivision.

(f) Declarant further reserves for itself, its successors and assigns, a perpetual drainage easement that shall be coextensive with the above described utility easements.

(g) Declarant further reserves for itself, its successors and assigns, a perpetual electrical utility easement located along all streets, both public and private, in the Subdivision. Said electrical easement shall be at the various widths at ground level, extend upward to a plane one hundred twenty feet (120') above the ground and from said plane, and upward the easement shall be twenty feet (20') in width.

(h) Declarant reserves for itself, its successors and assigns, the right to make minor changes in and additions to the utility easements hereinabove described for the purposes of more efficiently and economically installing the Improvements.

(i) The conveyance by Declarant of any Parcel in the Subdivision by contract, deed or other instrument of conveyance shall not in any event be held or construed

to include any of the rights, titles and easements heretofore reserved in any of the foregoing paragraphs, nor the title to water, gas, sanitary sewer, storm sewer, drainage, electric light, poles or conduits, pipes, mains and/or any other utilities or appurtenances thereto constructed by its agents, in, along, under, through, over, across or upon such easements, property, or any part thereof, of any other section of Declarant. The right to sell and lease or otherwise transfer all such rights, titles, easements, utilities and appurtenances is expressly reserved in Declarant.

VIII.

DUTIES and POWERS OF THE ASSOCIATION

- 8.1 General Duties and Powers of the Association. The Association has been formed to further the common interests of the Members. The Association, acting through the Board or through Persons to whom the Board has delegated such powers (and subject to the provisions of the Bylaws), shall have the duties and powers hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interests of the Members, to maintain, improve and enhance the Common Area and to improve and enhance the attractiveness, desirability and safety of the Stone Creek Farms Development and any portion of the Additional Land which becomes subject to the jurisdiction of the Association. The Association shall have the authority to act as the agent and attorney-in-fact for all Members of the Association and to enter into any and all contracts on behalf of the Members in order to carry out the duties, powers and obligations of the Association as set forth in this Declaration.
- 8.2 Duty to Accept the Stone Creek Farms Development and Facilities Transferred by Declarant. The Association shall accept title to any property, including any Improvements thereon and personal property transferred to the Association by Declarant, and equipment related thereto together with the responsibility to perform any and all administrative and maintenance functions and recreation functions associated therewith (collectively herein referred to as "Functions"), provided that such property and Functions are not inconsistent with the terms of this Declaration. Property interests transferred to the Association by Declarant may include fee simple title, easements, leasehold interests and licenses to use such property. Any property or interest in property transferred to the Association by Declarant shall be within the boundaries of the Stone Creek Farms Development or Additional Land. Any property or interest in property transferred to the Association by Declarant shall, except to the extent otherwise specifically approved by resolution of the Board, be transferred to the Association free and clear of all liens and mortgages (other than the lien for property taxes and assessments not then due and payable), but shall be subject to the terms of this Declaration, the terms of any Supplementary Declaration annexing such property to the Association, and all easements, covenants, conditions, restrictions and other encumbrances which do not materially affect the use and enjoyment of such property by the Association or by the Owners authorized to use such property. Except as otherwise specifically approved by resolution of the Board, no property or interest in property transferred to the Association by the Declarant shall impose upon the Association any obligation to make monetary to Declarant or any affiliate of Declarant including, but not limited to, any payments to purchase price, rent, charge or fee.

- 8.3 Duty to Manage and Care for the Common Area. The Association shall manage, operate, care for, maintain and repair all Common Area and keep the same in a safe, attractive and desirable condition for the use and enjoyment of the Members. The duty to operate, manage and maintain the Common Area may or may not include the following: establishment, operation and maintenance of a guardhouse and/or security patrol for the Stone Creek Farms Development; operate recreational facilities; landscaping (including the installation and maintenance of a sprinkler system); maintenance, repair and replacement of any private roads and private streets (if any), roadside ditches and culverts, culvert pipes underneath streets, bridges, traffic control Improvements (traffic signals and street lights); maintenance and operation of any Lakes; mowing of street right-of-ways and roadside ditches and other portions of the Stone Creek Farms Development.
- 8.4 Duty to Pay Taxes. The Association shall pay all taxes and assessments levied upon the Common Area and shall have the right to contest any such taxes or assessments provided that the Association shall contest the same by appropriate legal proceedings which shall have the effect of preventing the collection of the tax or assessment or the foreclosure of any lien for such tax or assessment, and provided that the Association shall keep and hold sufficient funds to pay and discharge the taxes and assessments, together with any interest and penalties which may accrue with respect thereto, if the contest of such taxes is unsuccessful.
- 8.5 Duty to Maintain Casualty Insurance. The Association shall obtain and keep in full force and effect at all times, to the extent reasonably obtainable, casualty, fire and extended coverage insurance with respect to all insurable Improvements and personal property owned by the Association, including coverage for vandalism and malicious mischief and, if available and if deemed appropriate, coverage for flood, earthquake and war risk. Casualty, fire and extended coverage insurance with respect to insurable Improvements shall, to the extent reasonably obtainable, be for the full insurable value based on current replacement cost.
- 8.6 Disbursement of Proceeds. Proceeds of insurance policies shall be used to replace, repair or reconstruct damaged portions of the Common Area. Any proceeds remaining after defraying such costs of repairs, replacement or reconstruction of the Common Area shall be retained by and for the benefit of the Association. This is a covenant for the benefit of any mortgagee of a Lot and may be enforced by such mortgagee.
- 8.7 Damage or Destruction. Immediately after the damage or destruction by fire or other casualty to all or any part of the Common Area covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates for the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction as used in this Section 8.7, means repairing or restoring the damaged or destroyed property to substantially the same condition in which it existed prior to the fire or other casualty.
- 8.8 Repair, Replacement and Reconstruction. If the damage or destruction for which the insurance proceeds are paid is to be repaired, replaced or reconstructed and

such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Members, levy a Special Assessment against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from said Special Assessment exceed the cost of such repair, replacement or reconstruction, such excess shall be deposited for the benefit of the Association.

- 8.9 Duty to Maintain Liability Insurance. The Association shall obtain and keep in full force and effect at all times, to the extent reasonably obtainable, broad form comprehensive liability insurance covering public liability for bodily injury and property damage including, but not limited to, public liability for bodily injury and property damage arising as a result of the ownership and operation of motor vehicles.
- 8.10 General Provisions Respecting Insurance. Insurance obtained by the Association may contain such deductible provisions as good business practice may dictate. Insurance obtained by the Association shall, to the extent reasonably possible without undue cost, contain a waiver of rights of subrogation as against the Association, each Member and any Person claiming by, through or under such Member and as against any officer, director, agent or employee of any of the foregoing. Insurance obtained by the Association shall, to the extent reasonably possible, and provided Declarant reimburses the Association for any additional premium payable on Account thereof, name Declarant as an additional insured and shall contain a waiver of rights of subrogation as against Declarant. Insurance policies and insurance coverage shall be reviewed at least annually by the Board to ascertain whether coverage under the policies is sufficient in the light of the current values of the Common Area and in light of the possible or potential liabilities of the Association. Casualty, fire and extended coverage insurance may be provided under blanket policies covering the Common Area and other property of Declarant.
- 8.11 Duty to Levy and Collect Fees, Charges and Assessments. The Association shall levy, collect and enforce the Maintenance Assessments, Special Assessments, and other charges and assessments as elsewhere provided in the Declaration.
- 8.12 Power to Adopt Rules and Regulations. The Association may adopt, amend, repeal and enforce rules and regulations ("**Rules and Regulations**"), fines, levies and enforcement provisions as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of the Common Area and the use of any other property within the Common Area, including Lots. Any such Rules and Regulations shall be reasonable and uniformly applied (as to all Owners, if applicable, and to Owners of similarly restricted Lots). Such Rules and Regulations shall be effective only upon adoption by resolution of the Board. Notice of the adoption, amendment or repeal of any Rule and Regulation shall be given by posting any such Rule or Regulation for thirty (30) days after that date of adoption in the Association office, and copies of the currently effective Rules and Regulations shall be made available to each Member upon request and payment of the reasonable expense of copying the same. Each Member shall comply with such Rules and Regulations and shall see that such Member's "**Related Users**" (as hereinafter defined) comply with such

Rules and Regulations. Such Rules and Regulations shall have the same force and effect as if they were set forth in and were part of the Declaration. In the event of conflict between the Rules and Regulations and the provisions of the Declarations, the provisions of the Declarations shall prevail.

- 8.13 Power to Enforce Restrictions and Rules and Regulations. The Association or the Declarant (and any Owner with respect only to the remedies described in (ii) or (iii), below) shall have the power to enforce the provisions of this Declaration and the Rules and Regulations and shall take such action as the Board deems necessary or desirable to cause such compliance by each Member and each **"Related User"** (defined herein as a Member's tenant, guest, invitee or contract purchaser who occupies the Owner's Lot). Without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of the Declaration and the Rules and Regulations of the Association by anyone or more of the following means: (i) by entry upon any property within the Stone Creek Farms Development after Notice and hearing (unless a bona fide emergency exists in which event this right of entry may be exercised without Notice [written or oral] to the Owner in such manner as to avoid any unreasonable or unnecessary interference with the lawful possession, use or enjoyment of the Improvements situated thereon by the Owner or any other Person), without liability by the Association to the Owner thereof, for the purpose of enforcement of this Declaration or the Rules and Regulations; (ii) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of this Declaration or the Rules and Regulations, by mandatory injunction or otherwise; (iii) by commencing and maintaining actions and suits to recover damages for breach of any of the provisions of this Declaration or the Rules and Regulations; (iv) by exclusion, after Notice and hearing, of any Member or Related User from use of any recreation facilities within the Common Area during and for up to sixty (60) days following any breach of this Declaration or such Rules and Regulations by such Member or any Related User, unless the breach is a continuing breach in which case such exclusion shall continue for so long as such breach continues; (v) by suspension, after Notice and hearing, of the voting rights of a Member during and for up to sixty (60) days following any breach by such Member or a Related User of a provision of the Declaration or such Rules and Regulations, unless the breach is a continuing breach in which case such suspension shall continue for so long as such breach continues; (vi) by levying and collecting, after Notice and hearing, an assessment against any Member for breach of this Declaration or such Rules and Regulations by such Member or a Related User (which assessment reimburses the Association for the costs incurred by the Association occasioned by the conduct of an Owner or by the family, tenants, agents, guests or invitees of an Owner), such assessment being hereinafter referred to as the **"Reimbursement Assessment;"** (vii) by levying and collecting, after Notice and hearing, reasonable and uniformly applied fines and penalties, established in advance in the Rules and Regulations of the Association, from any Member or Related User for breach of this Declaration or such Rules and Regulations by such Member or Related User; and (viii) by taking action itself to cure or abate such violation and to charge the expenses thereof, if any, to such violating Members, plus attorney's fees incurred by the Association with respect to exercising such remedy. The Reimbursement Assessment provided for in this Section 8.16 shall be levied by the Board and the payment thereof enforced in the same manner as the payment of Maintenance Assessments.

Before the Board may invoke the remedies provided above, it shall give registered Notice of such alleged violation to Owner and afford the Owner a hearing, as more particularly described in the Bylaws. If, after the hearing, a violation is found to exist, the Board's right to proceed with the listed remedies shall become absolute. Each day a violation continues shall be deemed a separate violation. Failure of the Association, the Declarant, or of any Owner to take any action upon any breach or default with respect to any of the foregoing violations shall not be deemed a waiver of their right to take enforcement action thereafter or upon a subsequent breach or default.

- 8.14 Power to Provide Public Functions. The Association shall have the power, but no obligation, to acquire, construct, operate, manage, maintain, repair and replace utilities, and additional public facilities, and to provide other Functions as more particularly described in this Declaration.
- 8.15 Power to Grant Easements. In addition to any blanket easements described in this Declaration, the Association or the Declarant shall have the power to grant access, utility, drainage, water facility and other such easements in, on, over or under the Common Area. Additionally, the Association, from and after the Control Transfer Date, shall have the power to grant access, utility, drainage, water facility and other similar easements in, on, over and under the portion of such Lots within the restricted building setback area provided that such easements do not unreasonably interfere with the Owners' use and enjoyment of such Lots.
- 8.16 Power to Convey and Dedicate Property to Government Agencies. The Association or the Declarant shall have the power to grant, convey, dedicate or transfer any Common Area (including private streets and roads) or facilities to any public or governmental agency or authority for such purposes and subject to such terms and conditions as the Association or the Declarant shall deem appropriate, which power may be exercised (i) prior to the Control Transfer Date by the Board and (ii) from and after the Control Transfer Date by the Association, with the approval of not less than two-thirds (2/3rds) of the Members agreeing in writing or by voting at any scheduled meeting of the Members and with the prior written approval of the Declarant. The Association or the Declarant may, subject to the limitations of the preceding sentence, convey property to a public or governmental agency or authority in lieu of such property being condemned by such public or governmental agency or authority.
- 8.17 Power to Approve/Disapprove Municipal Annexation of Property. Each Owner, by acceptance of a Deed to a Lot, whether or not it shall be expressed in any such Deed or other conveyance instrument, agrees that the Association, by and through the Board has the power to represent all Owners within the Stone Creek Farms Development with respect to any future proposed municipal annexation of the Subdivision or any part thereof into the City of Bryan, Texas, and execute any instruments in connection with such municipal annexation. Each Owner hereby expressly waives such Owner's right to oppose or support such municipal annexation unless the Board approves such opposition or support.

8.18 General Corporate Powers. The Association shall have all of the ordinary powers and rights of a Texas nonprofit corporation formed under the Laws of the State of Texas, including, without limitation, entering into partnership and other agreements, subject only to such limitations upon such powers as may be set forth in this Declaration, the Articles of Incorporation or Bylaws. The Association shall also have the power to do any and all lawful things which may be authorized, required or permitted to be done under this Declaration, the Articles of Incorporation and Bylaws and to do and perform any and all acts which may be necessary or desirable for, or incidental to, the exercise of any of the express powers or rights of the Association under this Declaration, the Articles of Incorporation and Bylaws.

IX.

NOTICE OF SALE OF LOT; CERTIFICATE OF COMPLIANCE

- 9.1 Notification of Sale of Lot. When a contract for the sale by an Owner other than a Declarant of a Lot has been executed, the selling Owner of the Lot shall give the Board reasonable written notification of the date, time and place of the closing of the sale. Thereupon the Board may prepare a certificate of compliance as provided in Section 9.2 and deliver it within a reasonable time to the place of closing. Outstanding assessments and charges, if any, and reasonable costs for correcting any other non-compliance, if any, shall be deducted from the selling Owner's account at the closing and transmitted directly to the Association.
- 9.2 Certificate of Compliance. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether or not the assessments and any charges on a specified Lot have been paid as of the date of preparation of such certificate. A properly executed certificate of the Association as to the status of a Lot shall be binding upon the Association as of the date of its issuance.

X.

GENERAL RESTRICTIONS APPLICABLE TO Land

All real property within the Stone Creek Farms Development shall be held, used and enjoyed subject to the following limitations and restrictions, and subject to the exemptions of Declarant set forth in this Declaration.

10.1 **BUILDING and CONSTRUCTION RESTRICTIONS**

(a) No residence shall be constructed on any Parcel that has an under roof heated living area as follows:

BLOCK ONE (1) of less than two thousand eight hundred (2,800) square feet, excluding porches, garages, patios and the like;

BLOCK TWO (2) of less than two thousand four hundred fifty (2,450) square feet excluding porches, garages, patios and the like; and

BLOCK THREE (3) two thousand six hundred (2,600) square feet excluding porches, garages, patios and the like.

(b) All single family dwellings shall be of recognized standard construction quality, and all exteriors (exclusive of doors, windows and similar openings) shall be constructed of at least eighty percent (80%) masonry, which shall be pre-approved in writing by the Committee. Masonry includes ceramic tile, brick, rock and all other materials commonly referred to in the Brazos County, Texas area as masonry. The use of the prefabricated materials, including antique homes moved from other locations, shall not be allowed.

(c) The surface of all roofs of principal and secondary structures shall be approved wood shingle, shakes, tile, quality composition shingle, or approved metal roof. The 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.

(d) No Improvements or fences shall be built over or across any landscape easements. No Owner shall add any trees and/or shrubs, or in any way alter the landscape easement areas. No Owner shall be allowed to trim trees or in any way disturb the landscape easement areas.

(e) Except as otherwise herein provided, each Parcel in the Subdivision shall be used only for non-commercial residential and recreational purposes. Only single family residential dwellings and appurtenances ordinary to residential living shall be permitted. To this end, without limitation, the following structures may not be built on any Parcel in the Subdivision: hospitals, clinics, rest homes, duplex houses, apartments houses, garage apartments, mobile homes, hotels, or any retail, wholesale, or other business or commercial establishment of any kind or nature.

(f) Each residence shall have a fully enclosed garage to be constructed at the time of the main residence, and the garage shall be constructed to house not fewer than two automobiles. No Owner shall be entitled to enclose a garage for residential use. All garages must be constructed of materials that are compatible with the construction materials used in the primary residence and shall be installed with electric opening and closing devices, which devices shall at all times be kept in serviceable condition. All roof materials must be of the same nature as the materials used on the main residence, and all exterior garage walls must be constructed of the same or similar material as the exterior of the main residence. All garages must be finished with sheetrock, taped and painted or such other finish as may be approved by the Committee. Garage doors visible from any street shall be kept in the closed position when the garage is not being used by the Owner or occupant.

(g) After commencement of construction of any structure or Improvement, the work thereon shall be diligently prosecuted to the end that the structure or Improvement shall not remain in a partly finished condition any longer than reasonably necessary for completion thereof.

(h) No Improvement greater than thirty-two (32) feet in height may be constructed on any Lot without the prior written approval of the Committee. For

purposes of this paragraph, height shall be measured from the foundation slab of the proposed Improvement to the ridgeline of the roof of the proposed Improvement.

(i) In the event an Owner desires to use solar panels or other solar equipment in connection with the use of any Lot, the location and installation design thereof shall be submitted to the Committee and approval of such design, including the aesthetics thereof, shall be required before construction may begin.

(j) All driveways shall be constructed of asphalt, ribboned in concrete. Any special stamp or colors must be pre-approved in writing by the Committee. Additionally, the Committee shall have the right to impose limitations on any other driveway design, including materials, aprons, location and point of contact with dedicated roads, streets or private driveway within the Property.

(k) All tanks for storage of fuel, water, oil or LPG must be buried underground. The Committee shall have the right to approve the location of any tank used or proposed in connection with a single family residential structure for swimming pool filter tanks. (No elevated tanks of any kind shall be erected, placed or permitted on any Lot without approval of the Committee). All swimming pool tanks shall be screened so as not to be visible from any portion of the Property.

(l) Only one single family dwelling and appurtenances thereto, such as garages, may be placed or constructed on each of the Parcels. No tent, shack or other temporary building, Improvement or structure shall be placed upon the Property without the prior written approval of the Committee; provided however, that the Committee may maintain or authorize temporary structures necessary for storage of tools and equipment, and for office space for architects, buildings 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.

(m) No building or structure, except fences, shall be located on any Parcel nearer to the property lines as designated on the Plat. Each Lot, when a dwelling is constructed, must install an underground sprinkler system or irrigation system in the front yard. No residential dwelling shall be built without a State of Texas approved septic tank or other sewage disposal system that is so approved.

(n) Drainage structures where required under private driveways shall have a net drainage opening area of sufficient size to permit the free flow of water without back water, and shall be a minimum of fifteen (15) inch diameter pipe culvert, or such other diameter as the Committee shall require.

(o) No building material of any kind or character shall be placed or stored upon any Parcel more than thirty (30) days before construction of a building or Improvements are commenced. All materials shall be placed within the building lines as established above. At the completion of such building or Improvements, excess or scrap material must be immediately removed from the premises.

(p) No stumps, trees, underbrush or any refuse of any kind and/or scrap material from Improvements being erected on any Parcel shall be placed on any other Parcel, or on streets or easements.

(q) Exposed openings resulting from any excavation made of any Parcel shall be backfilled and the disturbed ground shall be leveled. No change of elevation on any Parcel greater than five (5') feet shall be made without the approval of the Committee.

(r) No lights may be placed on the street, and no high pressure sodium lights shall be allowed on any Lot unless inside the dwelling, and no exterior lights shall be allowed to point up in the air, and any and all other exterior lighting shall be pre-approved in writing by the Committee.

(s) No house trailer, mobile home, van, tent, shack, garage, barn or other outbuilding shall at any time be used as a residence, temporarily or otherwise. No mobile home or house trailer shall be placed or parked on any Lot at any time for any purpose. A storage building is permitted on a Lot, so long as it does not exceed seven (7) feet in height, eight (8) feet in width, and ten (10) feet in length or such other dimensions and size as approved by the Committee. The storage building must be located on the Lot so that its lower five (5) feet are screened from view from any street in the Subdivision by a fence duly approved by the Committee as provided herein, it is located at or near the perimeter of the Lot, and it is constructed and maintained in a manner consistent with these restrictions. Other storage buildings may be considered as long as they are constructed from the same or comparable quality materials as the house on the Lot. All Plans showing materials, elevations, and location must be submitted to the Committee for approval prior to commencement of construction.

(t) No fences shall be built on a Lot between the street and the front of any residential dwelling.

(u) No Owner shall be allowed to use water from the Lake for irrigation or sprinkler systems, or for any other use other than fishing or boating.

(v) In the event of damage or destruction of any Improvement on any Lot, the Owner thereof shall promptly cause the damaged or destroyed Improvement to be (a) restored or replaced to its original condition or such other condition as may be approved in writing by the Committee, or (b) demolished and the Lot suitably cleared and landscaped subject to the approval of the Committee so as to present a pleasing and attractive appearance.

(w) The provisions of this Declaration do not impose any restrictions whatsoever or otherwise encumber the Additional Land, unless and until portions of the Additional Land are made subject to the jurisdiction of the Association by a separate instrument executed solely by Declarant or its successors and assigns and any lien holders, which instrument is recorded in the Office of the County Clerk of Brazos County, Texas.

(x) The Committee shall approve the landscaping plans and specifications for each Lot and shall have the authority to require such landscaping features as it determines in its judgment reasonably necessary to protect the development scheme, harmony and the aesthetics of the Subdivision. Within thirty (30) days of

the completion of the construction of a dwelling on a Lot, the entire Lot, save and except any approved landscaping, shall be planted with grass sod, unless otherwise approved by the Committee. Landscaping shall be completed on each Lot or Lots within thirty (30) days from the date of the completion of the construction of the residential dwelling thereon in accordance with such approved plans and specifications, except in cases where inclement weather prohibits the same, in which event such thirty (30) day period shall be continued for the number of days that weather conditions prohibited the completion of such landscaping.

(y) Unless otherwise approved by the Committee, the landscaping plans submitted to the Committee shall include a requirement that the Owner plant no less than ten (10) trees that are at least one and one-half (1.5) inches in caliper.

(z) The Committee may approve or disapprove, for any reason or no reason, at its sole discretion any item in this Section 10.1.

10.2 GENERAL RESTRICTIONS

(a) No residence located within the Subdivision shall be used as a rental property for purposes of providing a residence to students or unrelated parties. It is the intention of the Declarant that all residences are for single family residences and not for purposes of transient rental used by students or other unrelated parties. It is the further intention of Declarant that this restriction on rentals be interpreted and enforced in the most restrictive manner allowed by law.

(b) No Lot shall be permitted to have any overhead power lines for electricity, telephone, and cable or for any other purpose. All of the lines located on the Lots must be buried underground.

(c) No noxious or offensive trade or activity shall be carried upon any Parcel nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

(d) No business or business activity, whether for profit or not, shall be permitted in or on any Lot, except that an Owner or occupant may conduct business activities that are merely incidental to the Owner's residential use within a residential Improvement so long as (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the residential Improvement; (b) the business activity conforms to all zoning requirements and other restrictive covenants applicable to the Lot, (c) the business activity does not involve visitation of the residential Improvement by clients, customers, suppliers or other business invitees or door-to-door solicitation of residents of the Subdivision; and (d) the business activity is consistent with the residential character of the Lot and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Subdivision, as may be determined in the sole discretion of the Association. A day-care facility, home day-care facility, church, nursery, pre-school, beauty parlor, barbershop or other similar facility is expressly prohibited.

The terms "business" and "trade" as used in this provision shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis that involves the manufacture or provision of goods or services for or to other persons other than the provider's family, regardless of whether: (i) such activity is engaged in full or part-time (ii) such activity is intended to or does not generate a profit; or (iii) a license is required therefore. Notwithstanding the above, the leasing of the entire residential improvement, except as expressly prohibited in this Declaration, shall not be considered a trade or business within the meaning of this Section. This Section does not apply to any activity conducted by the Declarant, or by a builder with approval of the Declarant, with respect to its development and sale of the Property. Garage sales or yard sales (or any similar vending of merchandise) conducted on any Lot shall be considered business activity and therefore prohibited. The Association may, but shall not be obligated to, sponsor, organize or otherwise provide for a community wide garage sale.

(e) No sign(s), except sign(s) advertising property for sale (not exceeding five (5) square feet in size), may be erected or maintained on any Parcel without the consent in writing of the Committee. Declarant or Members of the Committee shall have the right to enter and remove any such signs, advertisement or billboard or structure which is placed on any Parcel without said consent, 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.

(f) No trailer(s); recreational vehicle(s); tent(s); boat(s); and/or stripped down, wrecked, junked, or otherwise wholly inoperable vehicle shall be kept, parked, stored, and/or maintained on any portion of the Lot. No dismantling, assembling or repair of motor vehicles, boats, trailers, recreational vehicles, or other machinery or equipment shall be permitted in any driveway or yard adjacent to a street.

(g) Owners shall not permit the accumulation of trash, rubbish, weeds, or other unsightly obstacles on their Parcels, or on the easements, or on any alley or the streets abutting the same. Each Owner shall be responsible for proper disposition of his trash and garbage. Owners shall keep the drainage easements free of obstructions.

(h) No act may be performed which is likely to pollute the air or water in any part of the Subdivision, nor may any property Owner violate any ordinance designed to eliminate pollution whether it be State, County, or City Ordinance.

(i) No oil or gas drilling, development, refining, quarrying or mining operations of any kind shall be permitted on any Lot, nor shall any tanks, tunnels, mineral excavations or shafts be permitted on any Lot. No derrick or other structures designed for use in boring or drilling for oil, natural gas, or other mineral shall be erected, maintained or permitted on any Lot, save and except existing locations at time of Plat approval. Notwithstanding the foregoing each Owner, by its acquisition of a Parcel of the Subdivision, hereby acknowledges that predecessors in title to the Restricted Property have reserved the mineral estate in and under the Subdivision. Nothing herein shall affect the rights of the owner or lessee of the oil, gas and other mineral rights to utilize the subsurface of the Restricted Property or

engage in directional or horizontal drilling which passes under the Restricted Property, provided that any exercise of such rights to any such minerals or interests therein shall in no way interfere with the utilization of the surface of the Restricted Property or impair the subjacent support of the Restricted Property and/or any improvements now or hereafter erected thereon.

(j) With the exception of electric trolling motors, no gasoline engine or other motor propelled watercraft shall be allowed on the Lake.

(k) All fish caught in the Lake shall be released, unless the Association deems that it is in the best interest of maintaining the quality of fish in the Lake to keep certain fish of a limited size, which size shall be determined by the Association. Violations of the catch and release shall be assessed a fine to be determined by the Association.

(l) Mailboxes shall be erected and maintained on each Lot upon which a residence is situated, and shall be fixed on masonry or stone stanchions (columns) matching the construction of the dwelling, approved by the Committee. No metal or wood post stands are 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.

(m) Vehicles shall be parked only in the garage or driveway serving the Lot, or in such other paved areas as have been approved by the Board for parking vehicles. A maximum of two (2) occupant vehicles may be parked outside of the garage, if any, serving the Lot. For purposes of this provision, a vehicle shall be considered an "occupant vehicle" if it is parked on the Lot four (4) or more hours per day, four (4) or more days in any seven (7) day period. There is no on-street parking except on a temporary basis for visitors and guests and in no event shall on-street overnight parking of vehicles be permitted. No garage shall be enclosed, modified or otherwise used so as to reduce its capacity for parking vehicles below that originally constructed by Declarant or approved by the Committee unless the Committee approves alternative arrangements for enclosed parking. Garage doors visible from any street within the Restricted Property shall remain closed except during ingress and egress or when the Owner or occupant is actively using the garage.

(n) Commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purposes, buses, tractors, mobile homes, recreations vehicles, trailers (either with or without wheels), campers, camper trailers, boats or other water craft, and boat trailers shall be parked only in enclosed garages or areas, if any, designated by the Association. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on any Lot or on any street in the Subdivision except within enclosed garages. Vehicles that become inoperable while in the Subdivision or on any Lot must be removed within seventy-two (72) hours thereof. For purposes of this Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with a tarpaulin or similar material and remains on blocks or so covered for fourteen (14) consecutive days without the prior approval of the Association. Notwithstanding the foregoing, service and delivery

vehicles may be parked in the Subdivision for such period of time, as is reasonably necessary to provide service or to make a delivery to a Lot or the Common Areas.

(o) No outside burning of any materials, except for grilling food in a conventional grill, shall be allowed in the Subdivision.

(p) No off road gas propelled vehicles (4-wheelers, golf carts, John Deere Gators, Kawasaki Mules, dirt bikes, motorcycles, or any other type of gas propelled vehicle or device) shall be driven on any streets or on any Common Area or on any vacant Lots.

(q) All fencing in the Subdivision or on any Lot shall be approved in writing by the Committee.

(r) No clotheslines shall be erected or installed on the exterior portion of any Lot and no clothing, linens or other material shall be aired or dried on the exterior portion of any Lot. All garbage cans, trash receptacles, above-ground storage tanks, mechanical equipment, woodpiles, yard equipment and other similar items on Lots shall be located or screened so as not to be visible from outside the boundaries of the Lot, unless otherwise approved by the Association in writing. Each and every Owner shall observe and comply with any and all regulations or requirements promulgated by the Association, in connection with the storage and removal of trash and garbage. All Lots shall at all times be kept in a healthful, sanitary condition. No Lot shall be used or maintained as a dumping ground for garbage, trash, junk or other waste matter. All trash, garbage, or waste matter shall be kept in adequate containers which shall be constructed of metal, plastic or masonry materials, with tightly fitting lids, and which shall be maintained in a clean and sanitary condition. The immediately preceding sentence shall not be deemed to prohibit the maintenance on a Lot of areas to store and create compost and other organic gardening materials for use on such Lot, so long as such areas are screened by fences, trees or shrubbery so as not to be generally visible from outside the boundaries of the Lot. No Lot shall be used for open storage of any materials whatsoever, except that new building materials used in the construction of Improvements erected on any Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without unreasonable delay, until completion of the Improvements, after which unused materials shall be promptly either removed from the Lot, or stored in a suitable enclosure on the Lot.

(s) The discharge of firearms within the Subdivision is prohibited. The term "firearms" includes B-B guns, pellet guns, and other firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein or in the Bylaws, neither the Association nor the Declarant shall be obligated to take action to enforce this Section, nor shall they have any liability to any Person for their failure to do so.

(t) No on-site storage of gasoline, heating or other fuels shall be permitted on any part of the residential property except up to five (5) gallons of fuel may be stored on each Lot for emergency purposes and operation of lawn mowers and

similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles and similar equipment.

(u) No above ground swimming pools shall be permitted. All pool service equipment shall be fenced and, in the case of any Lot, shall be located in either (i) a side yard between the front and rear boundaries of the principal dwelling, or (ii) the rear yard.

(v) No animals, livestock or poultry of any kind shall be raised, bred and/or kept on any portion of the residential property, except that dogs and cats, not to exceed a total of three (3) pets, may be permitted in a Lot. The foregoing limitation on number of pets shall not apply to hamsters, small birds, fish or other constantly caged in house animals, nor shall it apply to require the removal of any litter born to a permitted pet prior to the time that the animals in such litter are three (3) months old. However, those pets which are permitted to roam free, or, in the sole discretion of the Board, make objectionable noises, constitute a nuisance, endanger the health, or inconvenience the Owners of other Lots, or the Owner of any portion of the Subdivision, shall be confined indoors or removed upon request of the Board. If the Owner fails to honor such request, the Board may remove the pet. No pets shall be kept, bred or maintained for any commercial purpose. Each Owner shall be obligated to clean up after his or her animals. At all times whenever they are outside any fenced portion of a Lot, dogs shall be confined on a leash held by a responsible person and in strict compliance with any and all applicable ordinances, laws and rules.

(w) The Committee may approve or disapprove, for any reason or for no reason, at its sole discretion any item in this Section 10.2.

XI.
MISCELLANEOUS PROVISIONS

11.1 Each Owner and occupant of any Lot shall jointly and severally maintain such Owner's Lot, at their sole cost and expense, in a manner consistent with the community wide standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to this Declaration, any Supplementary Declaration, or other declaration of covenants applicable to such Lot, so as to keep each Lot so owned or occupied, including all buildings and Improvements thereon, in a well maintained safe, clean and attractive condition at all times. The community wide standard for maintenance of all Lots, including all buildings and Improvements thereon, shall include, but is not limited to, strict compliance with the following:

- (a) Prompt removal of all litter, trash, refuse and waste;
- (b) Lawn mowing on a regular basis;
- (c) Tree and shrub pruning;
- (d) Watering landscaped areas;

- (e) Keeping exterior lighting and maintenance facilities in working order;
 - (f) Keeping lawn and garden areas alive, free of weeds, and attractive;
 - (g) Keeping parking areas and driveways in good repair;
 - (h) Complying with all government health and police requirements;
 - (i) Repair of exterior damages to Improvements;
 - (j) Repainting of applicable Improvements;
 - (k) Replacement of dead landscaping to its previous condition, or in accordance with new landscaping plans approved by the Committee.
- 11.2 The foregoing Restrictions are adopted as part of and shall apply to each and every Parcel in the Subdivision. Such Restrictions are equally for the benefit of all subsequent Owners of Parcels in Stone Creek Farms Development and accordingly, shall be covenants running with the land. Any Owner or lienholder of any of the property shall have the power to prosecute in the appropriate court a suit at law or in equity to prevent any violation or attempted violation of the Restrictions and to recover damages for any violation or attempted violation including, but not limited to, reasonable attorney's fees; provided, however that this clause shall not restrict any governmental agency from acting to enforce any of the Restrictions.
- 11.3 The term of the Restrictions shall be for a period from the filing of this instrument for record in Brazos County, Texas, until the **1st day of January, A.D., 2024**, after which date such Restrictions shall be automatically extended for successive periods of ten (10) years each, unless and until, by instrument executed by the then record Owners of a majority of the Parcels in Stone Creek Farms Development and duly recorded in the Official Records of Brazos County, Texas, such Restrictions are altered, rescinded, modified or changed, in whole or in part.
- 11.4 Nothing contained in this document nor any violation of any of the Restrictions shall have the effect of impairing or affecting the rights of any mortgagee or trustee under any mortgage or deed of trust outstanding against the Subdivision or any portion thereof.
- 11.5 Any and all rights, powers and reservations of Declarant herein contained may be assigned to any person, corporation or Association which will assume the duties pertaining to the particular rights, powers and reservations assigned, and upon any such person, corporation or Association's evidencing its consent in writing to accept such assignment and assume such duties, he or it shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein and Declarant shall thereafter be released from any future liabilities. The term Declarant as used in this document shall include all such assignees and their heirs, successors and assigns.

- 11.6 Declarant reserves the right to make minor deviations from the terms of this document to the extent permissible by law and consistent with the general plan for development as herein set out, all without further action or consent by or from any party.
- 11.7 The invalidity, violation abandonment, waiver of or failure to enforce any one or more of or any part of the provisions of this document shall in no way affect or impair the remaining provisions or parts thereof which shall remain in full force and effect.
- 11.8 Declarant, its successors and assigns, shall have the right to bring within the scheme of this Declaration additional properties thereby subjecting such additional lands to this Declaration, by filing of Record of Supplementary Declaration with respect to such additional property which shall extend the scheme of this Declaration to such property. The Association shall accept same to be owned and managed pursuant to the terms and conditions of this Declaration.
- 11.9 Such Supplementary Declaration may contain such complimentary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties as are not inconsistent with the scheme of this Declaration. In no event, however, shall such Supplementary Declaration revoke, modify or add to the covenants established by this Declaration within the existing Subdivision.
- 11.10 The books and records of the Association shall be open to examination by any Member during reasonable business hours.
- 11.11 Invalidation of any one of the provisions of this Declaration shall not affect any other provision hereof, which shall remain in full force and effect.
- 11.12 Prior to the Control Transfer Date, the Declarant may file a statement in the Office of the County Clerk of Brazos County, Texas, which expressly provides for the Declarant's (1) discontinuance of the exercise of any right or prerogative provided for in this Declaration to be exercised by the Declarant or (ii) assignment to any third party owning property in Stone Creek Farms Development or Annexable Land, of one or more of Declarant's specific rights and prerogatives provided in this Declaration to be exercised by Declarant. The assignee designated by Declarant to exercise one or more of Declarant's rights or prerogatives hereunder shall be entitled to exercise such right or prerogative until the earlier to occur of the (a) Control Transfer Date or (b) date that said assignee files a statement in the Office of the County Clerk of Brazos County, Texas, which expressly provides for said Assignee's discontinuance of the exercise of said right or prerogative. From and after the date that the Declarant discontinues its exercise of any right or prerogative hereunder and/or assigns its right to exercise one of more of its rights or prerogatives to an assignee, the Declarant shall not incur any liability to any Owner, the Association or any other party by reason of the Declarant's discontinuance or assignment of the exercise of said right(s) or prerogatives(s).

Dated this the 13th day of April, 2004.

Declarant:

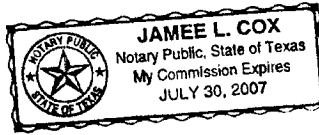
SNS Investments, LLC, a Texas limited liability company

By: C. D. Smith
Carey D. Smith, Manager

THE STATE OF TEXAS
COUNTY OF BRAZOS

This instrument was acknowledged before me on the 13th day of April, 2004, by Carey D. Smith, Manager of SNS Investments, LLC, a Texas limited liability company, on behalf of the said company, in the capacity therein stated.

James L. Cox
Notary Public, State of Texas



STATE OF TEXAS COUNTY OF BRAZOS
I hereby certify that this instrument was
filed on the date and time stamped herein by me
and was duly recorded in the volume and page
of the named records of:
BRAZOS COUNTY
as stamped herein by me.
Apr 13, 2004

HARRISON E. WARDEN, Notary Public, County Clerk,
BRAZOS COUNTY

Declaration Stone Creek Farms Development
Declaration Stone Creek v1.doc

Filed for Record in:
BRAZOS COUNTY
On: Apr 13, 2004 at 04:55P
As a
Record/Time
Document Number: 00851475
Amount 75.00
Receipt Number - 240228
By: Lynn Greer
Page 4 of 34

THE STATE OF TEXAS §

COUNTY OF BRAZOS §

**FIRST AMENDMENT TO
DECLARATION

OF

EASEMENTS, RESTRICTIONS AND COVENANTS

FOR

STONE CREEK FARMS DEVELOPMENT

BY

SNS INVESTMENTS, LLC, A TEXAS LIMITED LIABILITY COMPANY**

This First Amendment is made as of the 21 day of March, 2006, by SNS Investments, LLC, a Texas limited liability company (hereinafter referred to as the "Declarant").

WHEREAS, Declarant desires to amend certain terms of the Declaration of Easements, Restrictions and Covenants for Stone Creek Farms Development dated April 13, 2004, recorded in Volume 5971, Page 1, Official Records of Brazos County, Texas ("Declarations"); and

WHEREAS, all capitalized terms used herein, unless herein defined, shall be the same meaning as defined in the Declarations; and

WHEREAS, all terms of the Declarations that are not hereby amended shall remain in full force and effect; and

NOW THEREFORE, Declarant hereby amends the Declarations as follows:

1. 10.1 Building and Construction Restrictions.
 - (a) No residence shall be constructed on any Parcel that has an under roof heated living area as follows:

Block One (1) of less than two thousand six hundred (2,600) square feet excluding porches, garages, patios and the like;

Block Two (2) and Three (3) of less than two thousand two hundred (2,200) square feet excluding porches, garages, patios and the like.


2. 5.1 Creation of Annual Maintenance Charge. The initial annual maintenance fee ("Maintenance Charge" or "Annual Assessment") shall be Two Hundred Fifty and No/100 Dollars (\$250.00) per Parcel, payable in advance by the Owner of each Parcel on the first day of January of each year, beginning 2006, and each succeeding year thereafter until terminated as provided below, to the Association, its successors and assigns, for the purpose of creating a fund described below, known as the "Maintenance Fund". Where any Parcel is owned by more than one person or entity, said maintenance charge shall be payable by all such Owners, jointly and severally. The maintenance charge shall be prorated between purchasers and sellers of Parcels in the proportion that the remaining months of the calendar year bear to the whole year. By acceptance of a deed or other instrument of conveyance, or by any other claim of legal title to any Parcel or portion thereof, each Owner agrees and consents to the maintenance charge and the liens as provided herein. The maintenance charge shall be paid for each year and shall be extended automatically for successive periods of ten (10) years unless before December 31, 2014, or before the 31st day of December of any tenth year thereafter, the Owners of record of a majority of the Parcels in the Subdivision vote to discontinue such charge by written instrument which shall be signed and acknowledged by the Owners of record of a majority of the Parcels and recorded in the Official Records of Brazos County, Texas.

Dated this the 21st day of March, 2006.

DECLARANT:

SNS INVESTMENTS, LLC,
a Texas limited liability company

By: _____


Carey D. Smith, Manager

THE STATE OF TEXAS §

COUNTY OF BRAZOS §

This instrument was acknowledged before me on the 21 day of March, 2006, by Carey D. Smith, Manager of SNS INVESTMENTS, LLC, a Texas limited liability company, on behalf of the said company, in the capacity therein stated.

Gwen Boullion 3/21/06
Notary Public, State of Texas



Filed for Record in:
BRAZOS COUNTY

On: Mar 23, 2006 at 10:38A

As a
NO LABEL RECORDING

Document Number: 00920417

Amount 19.00

Receipt Number - 287048

By:
Cathy Barcelona

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.

Mar 23, 2006

HONORABLE KAREN MCQUEEN, COUNTY CLERK
BRAZOS COUNTY

THE STATE OF TEXAS §

COUNTY OF BRAZOS §

FIRST SUPPLEMENT

TO

DECLARATION

OF

EASEMENTS, RESTRICTIONS AND COVENANTS

FOR

STONE CREEK FARMS DEVELOPMENT
BY
SNS INVESTMENTS, LLC, A TEXAS LIMITED LIABILITY COMPANY

This **FIRST SUPPLEMENT TO THE DECLARATION** is made as of the 21st day of March, 2006, by **SNS INVESTMENTS, LLC** (hereinafter referred to as the "**DECLARANT**"), represented herein by Manager, Carey D. Smith. The address of the **DECLARANT** is 1707 Graham Road, College Station, Texas 77845.

WHEREAS, Declarant made the Declaration of Easements, Restrictions and Covenants for Stone Creek Farms Development by SNS Investments, LLC, a Texas limited liability company on April 13, 2004, recorded on April 13, 2004 in Volume 5971, Page 1, Official Records of Brazos County, Texas as amended by the First Amendment to Declaration of Easements, Restrictions and Covenants for Stone Creek Farms Development dated March 21, 2006 recorded on March 23, 2006, in Volume 7211 Page 265, Official Records of Brazos County, Texas (sometimes referred to herein as "Declarations"); and

WHEREAS, **DECLARANT** declares that it is the **OWNER** of approximately 27.409 acres of real property situated in Brazos County, Texas, and more full described in that certain plat of Stone Creek Farms - Phase 2A (sometimes referred to herein as "Phase 2A"), filed in the Office of the County Clerk of Brazos County, Texas, at Volume 1267, Page 259, (said property being hereinafter referred to as "Restricted Property"); and

WHEREAS, **DECLARANT** desires to add Phase 2A as Additional Collateral pursuant to the terms of the Declarations.

NOW, THEREFORE, **DECLARANT** hereby declares Phase 2A Additional Collateral to be part of the Stone Creek Farms Development under the Declarations and unless specifically changed in this First Supplement, shall be subject to the Declarations.

Declarant declares that Phase 2A shall be limited to the sole purpose of single family residences to be located in Phase 2A.

Declarant desires to supplement to Section 10.1 Building and Construction Restrictions:
(a) No residence shall be constructed on any Parcel in Phase 2A that has an under roof heated living area of less than two thousand two hundred (2,200) square feet excluding porches, garages, patios and the like.

Dated this the 21st day of March, 2006.

DECLARANT:

SNS INVESTMENTS, LLC,
a Texas limited liability company

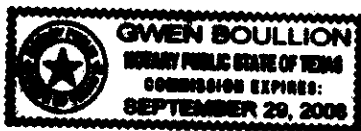
By: C. D. Smith
Carey D. Smith, Manager

THE STATE OF TEXAS §

COUNTY OF BRAZOS §

This instrument was acknowledged before me on the 21st day of March, 2006, by Carey D. Smith, Manager of SNS INVESTMENTS, LLC, a Texas limited liability company, on behalf of the said company, in the capacity therein stated.

Gwen Boullion 3/21/06
Notary Public, State of Texas



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Filed for Record in:
BRAZOS COUNTY

On: Apr 27, 2006 at 03:34P

As a
Recordings

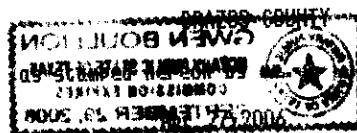
Document Number: 00924244

Amount 19.00

Receipt Number - 289485

By:
Teresa Ramirez

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:



HONORABLE KAREN MCQUEEN, COUNTY CLERK
BRAZOS COUNTY

THE STATE OF TEXAS §

COUNTY OF BRAZOS §

**SECOND AMENDMENT TO
DECLARATION**

OF

EASEMENTS, RESTRICTIONS AND COVENANTS

FOR

STONE CREEK FARMS DEVELOPMENT

BY

SNS INVESTMENTS, LLC, A TEXAS LIMITED LIABILITY COMPANY

This Second Amendment is made as of the 23rd day of March, 2007, by SNS Investments, LLC, a Texas limited liability company (hereinafter referred to as the "Declarant").

WHEREAS, Declarant amended the Declarations on March 21, 2006.

WHEREAS, Declarant desires to amend certain terms of the Declaration of Easements, Restrictions and Covenants for Stone Creek Farms Development dated April 13, 2004, recorded in Volume 5971, Page 1, Official Records of Brazos County, Texas ("Declarations"), as amended by the First Amendment to Declaration of Easements, Restrictions and Covenants dated March 21, 2006, recorded in Volume 7211, Page 265, Official Records of Brazos County, Texas; and supplemented by that certain First Supplement to Declaration of Easements, Restrictions and Covenants dated March 21, 2006, recorded in Volume 7281, page 16, Official Records of Brazos County, Texas; and

WHEREAS, Declarant hereby amends the Declarations and any Amendments thereto and the Replat of STONE CREEK FARMS, PHASE I, recorded in Volume 6383, Page 8, Official Records of the Brazos County, Texas, to amend the Building Setback lines in Phase I; and

WHEREAS, all capitalized terms used herein, unless herein defined, shall be the same meaning as defined in the Declarations; and

WHEREAS, all terms of the Declarations that are not hereby amended shall remain in full force and effect; and

WHEREAS, DECLARANT desires to amend the setback lines for all above affixed ground structures, except for fences;

NOW, THEREFORE, DECLARANT hereby amends the Declarations to add the following BUILDING SET BACK LINES in Phase I:

Declarant declares that there shall be no permanently affixed above ground structure, except for fences as follows: 1. No permanently affixed above ground structures shall be placed less than fifty (50) feet from the front property line of any Lot; 2. No permanently affixed above ground structures shall be placed less than twenty-five (25) feet from the rear or back property line of any Lot; and 3. No permanently affixed above ground structure shall be placed less than twenty (20) feet from any side property line of any Lot.

Dated this the 23rd day of March, 2007.

DECLARANT:

SNS INVESTMENTS, LLC,
a Texas limited liability company

By: Cy D Smith
Carey D. Smith, Manager

THE STATE OF TEXAS §

COUNTY OF BRAZOS §

This instrument was acknowledged before me on the 23 day of March, 2007, by Carey D. Smith, Manager of SNS INVESTMENTS, LLC, a Texas limited liability company, on behalf of the said company, in the capacity therein stated.



Terra T Plant
Notary Public, State of Texas

Filed for Record in:
BRAZOS COUNTY

On: Mar 23, 2007 at 09:07A

As a
Recordings

Document Number: 00957350

Amount 19.00

Receipt Number - 311954

By:
Lynn Greer

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.

Mar 23, 2007

HONORABLE KAREN MCQUEEN, COUNTY CLERK
BRAZOS COUNTY