



VG-240-2020-64010

Walker County
Kari A. French
Walker County Clerk

Instrument Number: 64010

Real Property

RESTRICTIVE COVENANTS

Recorded On: December 28, 2020 03:00 PM

Number of Pages: 28

" Examined and Charged as Follows: "

Total Recording: \$130.00

***** THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

File Information:

Instrument Number: 64010
Receipt Number: 20201228000043
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Record and Return To:

TEXAS GRAND RANCH
PO BOX 39
NEW WAVERLY TX 77358



STATE OF TEXAS
COUNTY OF WALKER

I hereby certify that this Instrument was FILED In the Instrument Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Records of Walker County, Texas.

Kari A. French
Walker County Clerk
Walker County, TX

**SECOND AMENDED & RESTATED
DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS, EASEMENTS, CHARGES AND LIENS FOR
TRIBUTE RANCH SUBDIVISION**

**STATE OF TEXAS §
 § **KNOWN ALL MEN BY THESE PRESENTS**
COUNTY OF WALKER §**

This Amended and Restated Declaration is made on the date hereinafter set forth by Tribute Ranch, LLC, a Delaware Limited Liability Company, hereinafter referred to as “Developer”.

WITNESSETH:

WHEREAS, Developer is the Owner of that certain parcel of land located in Walker County, Texas, containing 351.45 acres more or less and being more fully described in a deed to Tribute Ranch, LLC recorded under Document No. 2019-43972 of the Official Records of the Walker County Clerk, Walker County, Texas, and as shown on the maps and plats recorded in Volume 6, Page 162 and in Volume 6, Page 196, of the Plat Records of Walker County, Texas, hereinafter referred to as “Property;”

WHEREAS, on May 29, 2019 Developer filed of record the Declaration of Covenants, Conditions and Restrictions for Tribute Ranch under Clerk’s Instrument Number 47744 of the Official Public Records of the Walker County Clerk, Walker County Texas (“Original Declaration”) and;

WHEREAS, on December 17, 2019 Developer filed of record the Amended Declaration of Covenants, Conditions and Restrictions for Tribute Ranch under Clerk’s Instrument Number 53485 of the Official Public Records of the Walker County Clerk, Walker County Texas (“Original Declaration”);

WHEREAS, the Developer, in accordance with Section 10.03 of the Declaration, Developer, intends to and does hereby amend, replace and restate the Amended and Restated Declaration for Tribute Ranch, and this instrument shall for all purposes amend, replace and restate said Amended and Restated Declaration in its entirety as set forth below.

WHEREAS, the Original Declaration is now considered void and are completely replaced with the Amended and Restated Declaration;

WHEREAS, Developer desires to develop the Property as a residential, mixed-use office, retail, multi-family housing, condominium, and general commercial subdivision, together with any other land which Developer at its sole discretion may hereinafter add thereto, and to provide and adopt a uniform plan of development including assessments, conditions, covenants, easements, reservations, liens, and restrictions designed to govern, control and preserve the values and amenities of the Property for the development, improvement, sale, use and enjoyment of the

Property as a residential, mixed-use office, retail, multi-family housing, condominium, and general commercial subdivision; and

WHEREAS, it is the desire and purpose of Developer to place certain restrictions, easements, covenants, conditions and reservations (hereinafter "Restrictions") upon the Property in order to establish a uniform plan for its development, insure the use of the Property for residential purposes and certain Tracts as Commercial Use, prevent nuisances, prevent the impairment of the value of the Property, maintain the desired character of the community, and insure the preservation of such uniform plan for the benefit of the present and future Owners of the Tracts within the Property, and to promote the health, safety, and welfare of the residents within the Property;

NOW, THEREFORE, Developer hereby adopts, establishes and imposes upon the Property, the following Restrictions for the purposes of enhancing and protecting the value, desirability and attractiveness of the Property, which Restrictions shall run with the land and inure to the benefit of each Owner and his invitees:

ARTICLE I DEFINITIONS

1.01 Architectural Review Committee or ARC. "Architectural Review Committee" or "ARC" shall mean the Developer until the Control Transfer Date and thereafter a committee initially appointed by the Developer pursuant to these Restrictions to review and approve plans for the construction of Improvements as more specifically provided by Section 4.02 hereof. Board appointment shall mean property owners only, not developer board.

1.02 Annual Assessment. "Annual Assessment" means the amount set forth in Section 6.02 hereof.

1.03 Assessment. "Assessment" means the Annual Assessment, Special Assessments or other charges, interest, penalties and fees authorized by these Restrictions together with the cost and expense incurred in collecting Assessments, including, but not limited to court costs and attorney's fees.

1.04 Association. "Association" means and refers to New Waverly Tribute Ranch Property Owners Association and its successors and assigns.

1.05 Board of Directors. "Board of Directors" means and refers to the Board of Directors of New Waverly Tribute Ranch Property Owners Association.

1.06 Bylaws. "Bylaws" mean the Bylaws of the Association as from time to time amended.

1.07 Articles of Incorporation. "Articles of Incorporation" shall mean the Certificate of Formation of New Waverly Tribute Ranch Property Owners Association, and any amendments thereto, which have been or will be filed in the office of the Secretary of State of the State of Texas.

1.08 Commercial Tracts. "Commercial Tracts" shall mean Lots 3 and 5 in Section 1 and Lots 3, 4, 7, 8, 9, 11, 13, 14 and 17 in Section 2 as further described on the Plats filed under Volume 6, Page 162 and under Volume 6, Page 196 of the Official Plat Records of the Walker County Clerk, Walker County, Texas, said Commercial Tract being designated for either residential or Commercial Use subject to the restrictions set forth herein.

1.09 Common Area. "Common Area" means the portions of the Property, including any applicable easements, owned by the Association for the common use and enjoyment of the Members including, but not limited to, easements shown on the plat and/or defined herein, together with such other property as the Association may acquire in the future for the common use and enjoyment of the Members.

1.10 Common Area Expense. "Common Area Expense" means all expenses necessary to maintain, replace, repair and expand the Common Area as well as all necessary expense to operate the Association including, but not limited to, casualty and liability insurance, directors and officers liability insurance and all other reasonable and necessary expenses of the Association. Additionally, Common Area Expense shall include such other expense and capital enhancements as may be determined by the Board of Directors to promote the safety, health, recreation and welfare of the Members and maintain the Property in an attractive manner.

1.11 Developer. "Developer" means and refers to Tribute Ranch, LLC, a Delaware Limited Liability Company, its successors and assigns.

1.12 Improvement. "Improvement" means every structure and all appurtenances of every type and kind, including but not limited to buildings, outbuildings, patios, storage buildings, barns, garages, decks, stairs, retaining walls, screening walls, fences, landscaping art or statuary, poles, signs, exterior air conditioning units, exterior water softener fixtures or equipment, pumps, wells, tanks, reservoirs, pipes, utilities, lines, meters, antennas, towers, satellite dishes or any other sound or data receivers or transmitters. The term "Improvement" excludes the interior of each residence, guest quarters, barn or other approved building and the ARC shall have no authority to approve or disapprove improvements made to the interior of such buildings where the exterior of the building is not affected by the interior improvement.

1.13 Member. "Member" means and refers to every current Owner of a Lot.

1.14 No Clear Zone. "No Clear Zone" means and refers to the 25' no cut buffer as more particularly described in Section 3.18.

1.15 Notice. Whenever any "notice" is required by these Restrictions, such notices shall be in writing and shall be deemed received when actually received, or five days after the deposit of such notice in the United States mail, postage prepaid and addressed to the last known address of an Owner appearing on the books of the Association, whether or not such notice is actually received. It shall be the duty of each Owner to keep the Association apprised of its current address.

1.16 Owner or "Tract Owner". "Owner" or "Tract Owner" means and refers to the

record owner, whether one or more persons or entities, of the fee-simple title to any Lot(s) but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceedings in lieu of foreclosure. Said term "Owner" or "Tract Owner" shall also refer to the heirs, successors, and assigns of any Owner. The Developer shall not be deemed an Owner.

1.17 Plans or Specifications. "Plans" or "Specifications" means any and all drawings and documents describing 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, fencing plans, elevation drawings, floor plans, specifications concerning building products and construction techniques, samples of exterior colors and materials, plans for utility services, and all other documentation or information relevant to the construction or installation of any Improvement.

1.18 Plat. "Plat" means and refers to the plat of Tribute Ranch Section 1 filed on May 14, 2019 under Volume 6, Page 162 and Tribute Ranch Section 2 filed on December 17, 2019 under Volume 6, Page 196, in the Plat Records of Walker County, Texas, and any replat of or amendment thereto.

1.19 Recreational Vehicle or RV. Recreational Vehicle is defined in Section 3.08 hereof.

1.20 Shared Driveway – Shall mean certain Lots in the subdivision are subject to Shared Driveways as defined in Section 2.05 and Section 3.22 of this declaration.

1.21 Special Assessment. "Special Assessment" shall have the meaning given to that term in Section 6.03 hereof.

1.22 Tract or Lot. "Tract" or "Lot" means the 24 individual tracts of land or lots identified on the Plat, or any amendments thereto. Any reference to Tract or Lot refers to residential Tracts and Commercial Tracts.

1.23 Transfer Control Date. The "Transfer Control Date" shall mean the earlier date of: 1.) Developer no longer owns any part of the entire Property, including but not limited to Common Areas; 2.) Fifteen (15) years from date of recordation of this Amended and Restated Declaration; or 3.) Developer, in its sole discretion, voluntarily relinquishes control of the Association as set forth in Sections 4.02(a) or 7.01 hereof. Notwithstanding this provision, on or before the 120th day after the date seventy five percent (75%) of the Lots that may be created and made subject to this Amended and Restated Declaration are conveyed to owners other than Developer, at least one third of the board members must be elected by owners other than the Developer.

ARTICLE II

RESERVATIONS, EXCEPTIONS AND DEDICATIONS

2.01 Property Subject to Restrictions. The Property, including all the individual Tracts, are subject to these Restrictions which shall run with the land and be binding on all parties having or acquiring any right, title or interest therein, or any part thereof, and shall inure to the benefit of

each owner thereof.

2.02 20' Utility & Drainage Easement. The Property and each Tract shall be subject to the easements reserved herein and in favor of the Association, the Owners and the utility companies. A utility and drainage easement measuring twenty feet (20') in width is reserved along the front of each Tract. A building and utility easement measuring twenty feet (20') in width and centered on the common boundary line that any Tract in the Property shares with another Tract is reserved. A building line setback line of twenty five feet (25') in width is reserved along all rear and side lot lines of each lot. The utility and drainage easements shall be used for the construction, maintenance and repair of utilities and drainage, including but not limited to, electrical systems, telephone, cable, water, gas, and any other utilities which the Developer or utility providers may install for the benefit of the Owners. Notwithstanding the foregoing, the Developer has no obligation to provide utilities and all such utilities shall be provided by the local utility companies in accordance with the policies of such utility companies. All utility and drainage easements in the Property may also be used for the construction of drainage facilities in order to provide for improved surface drainage of the Tracts. The Developer reserves the right to grant specific utility easements without the joinder of any Owner to public utility providers within the boundaries of any of the easements herein reserved. Any utility company serving the Property shall have the right to enter upon any utility and drainage easement for the purpose of installing, repairing, and maintaining their respective facilities. Neither Developer nor any utility company, political Property or other authorized entity using the easements herein reserved shall be liable for any damages done by them or their assigns, agents or employees to fences, shrubbery, trees and lawns or any other property of the Owners located within the easements.

2.03 Construction of Improvements on Utility and Drainage Easements. No buildings or walls shall be located over, under, upon or across any portion of any utility and drainage easement. The Owner of each Tract shall have the right to construct, keep and maintain concrete drives, landscaping, fences and similar improvements across any utility and drainage easement, and shall be entitled to cross such easements at all times for purposes of gaining access to and from such Tracts, provided, however, any concrete drive, landscaping, fencing or similar improvement placed upon any utility and drainage easement shall be constructed, maintained and used at the Owner's risk and each Owner shall be responsible for repairing any damage caused by the utility providers to Improvements constructed within the easements located on his Tract.

2.04 Drainage Easement. A drainage easement exists along creeks, sloughs, ravines, draws, gullies, or other natural and/or developer manmade drainage pathways. The width of said drainage easement is that required to carry the flow of water during a rain event and/or run off from a rain event. No construction of the buildings, outbuildings, sheds, corrals, or other manmade structures, blockage, filling or alternations of said natural or manmade drainage pathways will be allowed. No obstruction of the flow of water shall occur without the written approval of the Architectural Review Committee. In no case shall the impoundment or alternation of drainage pathways adversely affect the adjacent lots or properties.

2.05 Driveways. All lots are subject to the existing Texas Department of Transportation permits issued for the previously approved driveway locations, whether shared or individual. No

additional driveways may be requested in locations other than in the permitted locations. This must be strictly adhered to and no variances will be granted by the Developer for additional driveways.

The following lots are subject to a Shared Driveway Agreement: Section 1, Lots #3/4, #5/6; Section 2, Lots #3/4, #5/6, #7/8, #9/10/11, #12/13, #14/15/16 and #17/18. The construction of the shared drive location must be in conformance with the TXDOT Permit.

As there is no required "build by date" for the properties, an owner choosing to build may install the driveway entrance location. At the time an additional shared drive lot owner wishes to build they are responsible for reimbursing the lot owner that installed the drive entrance per the TXDOT Permit, their proportionate share of the costs of the construction of the drive.

It is the responsibility of the first lot owner to keep and provide accurate records of the cost of construction of the entrance drive to be reimbursed by additional lot owners. Reimbursable expenses are defined as only the costs of the ditch excavation, culvert installation with sub base and base prep and driving surface per the TXDOT Permit requirements.

ARTICLE III **USE RESTRICTIONS FOR TRACTS**

3.01 Single Family. Except as specifically set forth in these Restrictions, all Tracts shall be used for single-family residential purposes only. Except as expressly permitted herein, only one single-family residence with a guest home for each Tract is permitted. Lots 3 and 5 in Section 1 and Lots 3, 4, 7, 8, 9, 11, 13, 14 and 17 in Section 2 may be allowed for Commercial Use under the restrictions set forth in Article IX below.

3.02 Minimum Square Footage. Every single-family dwelling shall contain at least twelve hundred (1,200) square feet of heated and cooled living area, excluding porches, garages, and storage areas.

3.03 Garages. All single family dwelling units, except approved guest quarters, must have a garage or carport. All garages and carports must be constructed out of the same materials as used for the main dwelling and must be of a sufficient size to accommodate a minimum of two (2) vehicles. All garages and carports shall obtain prior written approval from the Architectural Review Committee for design and placement on the Tract.

3.04 Guest Quarters. One guest quarters may be built upon each Tract provided the guest quarters contain at least four hundred fifty (450) square feet of heated and cooled living area, excluding porches, garages, and storage areas. Guest quarters must be built along with or after the construction of the main dwelling and may not be built or occupied prior to the main dwelling unit being occupied. Guest quarters must be constructed with material harmonious with the main dwelling, and located behind main dwelling.

3.05 Barns, Workshops & Storage Buildings. One permanent metal, rock, wood and/or hardiplank barn, workshop, or storage building shall be allowed so long as such building has rock wainscot or approved landscaping beginning at the bottom of the building and extending three feet

(3') upward on the front of the building and is constructed with material harmonious with the main dwelling. Detailed plans and specifications for barns and workshops must be submitted to the Developer or ARC in order to be considered for approval. Such structures must be located behind the main dwelling site and may be constructed on the Tracts prior to the main dwelling being constructed or occupied. No portable storage buildings shall be allowed. All barns, workshops, and storage buildings must be approved by the Developer or, after the Transfer Control Date, the ARC. Additional barns, workshops and storage buildings may be constructed after the main dwelling is built and occupied if approved by the Developer or, after the Transfer Control Date, the ARC.

3.06 Barns as Temporary Living Space. Guest quarters located inside of a barn which is constructed on the Property shall be allowed so long as the guest quarters are not used as a permanent residence and they contain at least four hundred fifty (450) square feet as detailed in Section 3.04 above. Guest quarters shall not be rented for income. Such guest quarters may be used as the Owner's temporary residence during the construction of the main dwelling or as a "weekend getaway" for such Owner prior to the construction of the residence. Any barns or barns with temporary living quarters must have a twenty five (25) foot no cut buffer from the front, side and rear lot line.

3.07 No Mobile or Manufactured Homes. No mobile or manufactured homes are permitted to be located on any Tract except as permitted by Section 3.08 hereof.

3.08 Temporary Structures & Use of RVs. No structure of a temporary character, whether trailer, motor home, recreational vehicle, tent, basement, shack, garage, barn or other outbuilding shall be maintained or used on any Tract at any time as a residence, either temporarily or permanently, except as provided below. No Tract shall be used as a camping ground.

Prior to the construction of a residence on a Tract, an Owner may use a recreational vehicle camper or motor home (Recreation Vehicle or "RV") for camping purposes no more than seven (7) days out of any thirty (30) day period and no more than sixty (60) days per year. TEMPORARY CAMPING OR USING ANY TYPE OF RECREATIONAL VEHICLE, WILL NO LONGER BE PERMITTED, ONCE FIFTY PERCENT (50%) OR MORE OF THE LOTS IN THE PROPERTY HAVE RESIDENCES BUILT ON THEM. With written approval from the ARC, an RV may be used as a temporary residence during construction, not to exceed six (6) months, provided an approved septic system has been installed for the RV and the RV is placed at the rear of the construction site.

Temporary structures, including a business office, portable restroom facilities, or construction storage facilities may be located on a Tract while the main residence for a Tract is actively under construction, provided that such are removed upon substantial completion of construction and are not located on a Tract for longer than the time allowed for construction of a main residence pursuant to Section 3.11 hereunder.

The Developer reserves the exclusive right to install and make use of a temporary office or temporary storage facilities within Property while the developer is selling Tracts or building homes in the Property.

3.09 Storage of Trailers, RVs and Boats. All trailers, RVs, trucks (other than pickups with a rated capacity of one (1) ton or less), boats, personal water craft, tractors, wagons, buses, motorcycles, motor scooters, all-terrain vehicles, golf carts and other recreational vehicles, lawn or garden equipment, farm or ranch equipment, construction equipment and other similar items shall be stored in enclosed structures or screened from view from any road that abuts the Property.

3.10 Construction Sites. All construction sites shall have sufficient portable restroom facilities or other adequate restroom facilities as determined by the Architectural Review Committee or Developer prior to Transfer Control Date. Construction Sites shall be kept neat and clean at all times and comply with such construction site guidelines as may be established by the Architectural Review Committee from time to time.

3.11 Construction Time. Any construction of any Improvement shall be completed, as to the exterior, within twelve (12) months from the construction commencement date.

3.12 Construction Materials. All Improvements must use construction materials such as wood, rock, brick, hardiplank, metal or stucco. The use of aluminum siding or vinyl siding is prohibited. The Architectural Review Committee or the developer prior to Transfer Control Date may authorize the use of other materials on a case by case basis. Barns and other out buildings may be constructed of metal or materials listed above, provided they meet the Section 3.05 requirements.

3.13 Roofing Materials. Only the following roofing materials may be used for the main residence, guest quarters, and garages: slate, stone, concrete tile, clay tile, or other tile of ceramic nature, metal or composition shingles with a thirty (30) year or more warranty. Colors of roofing material are subject to the approval of the Architectural Review Committee or the Developer (prior to the Transfer Control Date) approval. No reflective roofing is allowed. The Architectural Review Committee or the Developer (prior to the Transfer Control Date) shall have the authority and sole discretion to approve other roof treatments and materials which are harmonious with the surrounding homes and the Property as a whole. The materials and colors of Roofs on all other structures must be approved by the Architectural Review Committee or Developer (prior to the Transfer Control Date). Owners may install roof shingles that are wind and hail resistant, energy efficient or solar generating, if the quality and appearance are comparable to the Property standard. All such materials will need approval from the Architectural Review Committee or Developer (prior to the Transfer Control Date).

3.14 Color. All exterior color schemes for Improvements are subject to the prior written approval of the Architectural Review Committee or Developer (prior to the Transfer Control Date).

3.15 Masonry. Any residence, guest quarters, garage, barn or storage building shall be constructed with at least a minimum of three (3) feet of brick or stone skirt on the front and sides.

3.16 Propane Fuel Storage. Propane fuel storage for residential use may be located on the Tracts and may be placed above ground or below ground. The exact location and quantity of said fuel storage tanks are subject to written approval of the Architectural Review Committee or Developer (prior to the Transfer Control Date). All above ground tanks, pumps, vent pipes and

other equipment must be concealed or attractively screened.

3.17 Consolidated Building Site. Any Owner of one or more adjoining Tracts may, with the prior written approval of the Board of Directors and with the approval of the Walker County Commissioners Court, if required, consolidate two or more Tracts into one Tract or building site, in which case the common boundary line between any combined Tract shall be eliminated and the setback lines shall be measured from the remaining exterior boundary lines. Any portion of any building line, utility and drainage easement located within the common boundary lines of any combined Tract shall be eliminated if such easements are not being used at the time any Tracts are combined. No Tract shall be deemed to be combined with another Tract until such time as an appropriate re-plat of the combined Tracts is filed with the Walker County Plat Records and all necessary approvals have been obtained. Any Tracts which are combined as provided above shall be assessed as the number of original Tracts for Assessment purposes. Developer shall not be liable for any fees associated with Tract consolidation.

3.18 Setback Lines. Except for fencing, light posts, driveways, walkways and landscaping, no improvements shall be located nearer than One hundred (100') feet from the property line of any Tract that abuts a public road or twenty five (25') feet on the sides and rear of the property. Any exterior lighting, including but not limited to light post, must be approved by the Architectural Review Committee or Developer (prior to the Transfer Control Date). The Architectural Review Committee or Developer (prior to the Transfer Control Date) has the sole discretion to reject any exterior lighting, as it is the intent of these restrictions that exterior lighting be installed so that there is down lighting. The Architectural Review Committee or Developer (prior to the Transfer Control Date) may waive or alter any setback line, if in the Architectural Review Committee's or Developer's (prior to the Transfer Control Date) sole discretion, such waiver or alteration is necessary to permit effective utilization of a Tract due solely to drainage or land contour related concerns. **There is a twenty five foot (25') no cut buffer located at the front of all Tracts fronting on a public roadway. No trees or vegetation may be removed from this 25', except for a driveway out. Violation of the "no clear zone" on the front boundary line will result in a Tract Owner being required to plant additional trees or approved vegetation to screen the cleared area and a possible fine imposed by the Association. Additionally, Commercial Tracts must maintain a 25' no cut buffer on the rear and side boundary lines of the Tract.**

3.19 Maintenance. The Owner shall keep its Improvements in good condition and repair at all times and ensure that all Improvements are adequately painted and otherwise maintained by the Owner.

3.20 Alteration or Removal of Improvements. No exterior Improvements shall be altered, modified, or removed without the prior written approval of the Architectural Review Committee or Developer (prior to the Transfer Control Date). Improvements may be repainted the same color without approval of the Architectural Review Committee or Developer (prior to the Transfer Control Date).

3.21 Walls and Fences. Walls, fences and light posts, if any, must be approved prior to Construction by the Architectural Review Committee or Developer (prior to the Transfer Control

Date) and must be constructed of new material, and unless otherwise permitted by the Architectural Review Committee or Developer (prior to the Transfer Control Date), constructed of masonry, wrought iron, wood, metal, pipe, or ranch fencing with t-posts. Wood fences must be constructed in a low profile, open view, style with horizontal rails. Fence heights shall not exceed five feet (5'). Chain link fencing is prohibited, except if used as a dog run and only if such fencing is not visible from any road that abuts the Property. If pipe fencing is used, such fences must have a minimum of one (1) horizontal pipe along the front of the Lot and otherwise conform with the Architectural Review Committee's or Developer's (prior to the Transfer Control Date) specifications. The Property's perimeter fencing is an individual Owner's responsibility. Any modifications or replacements must be approved by the Developer or, after the Transfer Control Date, the ARC. The perimeter fencing cannot be removed and must be properly maintained by the Tract Owner.

3.22 Driveways. All lots have a TXDOT Driveway permit, whether individual or shared. Driveways may only be located in those locations. No additional driveway permits may be requested or permitted. If Lot 3, 4, or 11 in Section 2 are used for a Commercial Use they will require further TXDOT approval for TXDOT entrance permits.

The following lots are subject to a Shared Driveway Agreement: Section 1, Lots #3/4, #5/6; Section 2, Lots #3/4, #5/6, #7/8, #9/10/11, #12/13, #14/15/16 and #17/18. The construction of the shared drive location must be in conformance with the TXDOT Permit.

As there is no required "build by date" for the properties, an owner choosing to build may install the driveway entrance location. At the time an additional shared drive lot owner wishes to build they are responsible for reimbursing the lot owner that installed the drive entrance per the TXDOT Permit, their proportionate share of the costs of the construction of the drive.

It is the responsibility of the first lot owner to keep and provide accurate records of the cost of construction of the entrance drive to be reimbursed by additional lot owners. Reimbursable expenses are defined as only the costs of the ditch excavation, culvert installation with sub base and base prep and driving surface per the TXDOT Permit requirements.

3.23 Prohibited Activities and Nuisance. No activity shall be conducted on any Tract which is not related to the occupation of a Tract for single family residential purposes, except those lots designated herein for Commercial Use, unless said activity meets the following criteria: (a) no exterior sign of the activity is present, (b) no additional traffic is created as a result of the activity, and (c) no toxic substances (as determined at the sole discretion of the Association) are stored on the Tract. Nothing herein shall prohibit the use of home offices in compliance with the preceding subsections (a), (b) and (c). This restriction is waived in regard to the customary sales activities required to sell homes in the Property. No activity which constitutes a nuisance or annoyance shall occur on any Tract. The Association shall have the sole and absolute discretion to determine what constitutes a nuisance or annoyance. All exterior lighting must be approved by the Developer or, after the Transfer Control Date, the ARC. The Developer or ARC has the sole discretion to reject any exterior lighting, as it is the intent of these restrictions that exterior lighting be installed so that there is down lighting. No exterior speaker, horn, whistle, bell or other sound device, except security and fire devices used exclusively for security and fire purposes, shall be located, used or

placed on a Lot.

The Association shall have the sole and absolute discretion to determine what constitutes a nuisance or annoyance. Activities expressly prohibited, include, without limitation: (1) the use or discharge of firecrackers or other fireworks within the Subdivision; (2) the storage of ammonium nitrate, flammable liquid in excess of five gallons; (3) other activities which may be offensive by reason of odor, fumes, dust, smoke, noise, vibration or pollution, or which are hazardous by reason of excessive danger, fire or explosion; or (4) no motor sport tracks, racing areas, or activities, whether for personal, private or public use may be constructed on a Tract or vehicles used for such activity on any Tract.

3.24 Garbage and Trash Disposal. No Tract shall be used as a dumping ground for rubbish, landscape trimmings, or other debris. All Tracts shall be kept in a neat and orderly condition. No refrigerators, freezers, washing machines, dryers, furniture, tools, equipment, toys, or other such items shall be stored outside of a building on any Tract. No junk of any kind or character shall be kept on any Tract. Trash, garbage, landscape trimmings, or other debris shall not be allowed to accumulate on any Tract. Any such items shall be kept in sanitary containers and shall be disposed of regularly in accordance with all applicable laws, rules and regulations. All equipment for the storage or disposal of trash and other debris shall be kept in a clean and sanitary condition. Except on established garbage collection days and in connection solely with that collection process, all trash containers shall be stored in enclosed structures or screened from view from any road that abuts the Property. Controlled burn piles are permitted in accordance with applicable laws, rules, and regulations of the State of Texas and Walker County, Texas.

3.25 Unregistered or Junked Motor Vehicles Prohibited. No Tract shall be used as a depository for abandoned, junked or unregistered motor vehicles, boats, airplanes, trailers or other similar items.

3.26 Signs. No signs, advertising, billboards or advertising structure of any kind may be erected or maintained on any Tract without the consent in writing of the Architectural Review Committee or Developer (prior to the Transfer Control Date). Political signs for a political candidate or ballot item for election, as set forth in the Texas Property Code §202.009, may be displayed on a Lot but can only be displayed on or after the 90th day before the date of the election to which the sign relates and must be removed 11 days after the election. The sign must be ground mounted, 2'x 3' in size and an Owner may only display one sign for each candidate or ballot item. No For Sale or Rent signs may be allowed until after the Control Transfer Date.

3.27 Animal Husbandry. Domestic livestock and exotic animals shall be allowed on all Tracts, so long as such animals do not exceed one (1) animal for every one (1) fenced acre and do not become a nuisance or threat to other Owners. The Association shall have the sole discretion in determining if any animal is a nuisance and make regulations on banning such animal. Pigs and hogs are not allowed on any Tract, unless it is an approved FFA or 4-H animal. Chickens, turkeys and other birds shall only be allowed so long as such birds are kept in a coop and do not exceed twenty (20) birds per Tract. Regardless of lot size, coops must be preapproved by the ARC in writing to ensure they are screened from view. All animals being raised by the individual Owners must be kept in a fenced area on the Owner's Tract. No overgrazing is permitted on any portion of

the Tract as determined by the sole discretion of the Association. Dogs, cats or other common household pets may be kept on a Tract. Dogs will not be permitted to run loose in the Property and must be kept on a leash when not fenced in on an Owner's Tract. Dogs and cats must be vaccinated for rabies and other diseases required by applicable laws, rules, and regulations and shall be licensed or registered as may be required by applicable laws, rules, and regulations. No feedlots for any type shall be permitted.

3.28 Mineral Development. No Owner shall be allowed to permit on their own behalf, commercial drilling, mineral development operations, mineral refining, quarrying, mining or water operation of any kind in, on or under any Tract owned by such Owner. Developments of water sources for an individual Owner's use, including the construction of windmills for individual water extraction are permitted provided that advance written approval of the Architectural Review Committee or Developer (prior to the Transfer Control Date) is obtained.

3.29 Drainage. Natural established drainage patterns for drainage will not be impaired by any Owner. Driveway culverts must be installed and shall be of sufficient size to afford proper drainage of ditches without allowing water to pool, back up or be diverted from its natural course. Drainage culvert installation is subject to the inspection and approval of the Architectural Review Committee or Developer (prior to the Transfer Control Date) and shall comply with any applicable governmental rules and regulations. All water retainage structures (ponds, dams and other facilities) not already existing within the Property must be reviewed and approved by the Architectural Review Committee or Developer (prior to the Transfer Control Date) prior to construction and must comply with all governmental rules and regulations.

3.30 Subdividing. Tracts may be further subdivided one additional time for a maximum of two lots, minimum of 5 acres each, if they meet the requirements for and obtain any and all permits required by the Local, State and/or Federal government, including approval of a replat by the Walker County Commissioner's Court, but will not be allowed additional driveway permits. Subdivided Tracts shall each be required to pay Assessments.

3.31 Maintenance and Landscaping of Lots. It shall be the responsibility of each Owner to prevent the development of any unclean, unsightly, or unkempt condition of buildings or grounds on such Tract which would tend to substantially decrease the beauty and safety of the neighborhood as a whole or the specific area.

ARTICLE IV

ARCHITECTURAL REVIEW COMMITTEE

4.01 Basic Control & Applications.

- (a) No Improvements of any character shall be erected or placed, or the erection or placing thereof commenced, or changes made to the exterior design or appearance of any Improvement, without first obtaining the Architectural Review Committee's or Developer's (prior to the Transfer Control Date) approval. No demolition or destruction of any Improvement by voluntary action shall be made without first obtaining the Architectural Review Committee's or Developer's (prior to the

Transfer Control Date) approval.

- (b) Each application made to the Architectural Review Committee or Developer (prior to the Transfer Control Date) for approval, shall contain an application in the form specified by the Architectural Review Committee or Developer (prior to the Transfer Control Date), two sets of professionally drawn Plans and Specifications for all proposed Improvements, showing the location of all Improvements in the Tract, and any applicable fees or deposits together with such other reasonable necessary information as the Architectural Review Committee or Developer (prior to the Transfer Control Date) shall request. The ARC non-refundable application fee for residential lots shall start at \$500 but may be adjusted upwards as required. In addition there is a \$1,000 refundable damage deposit required with all applications This damage deposit shall be refunded upon completion of said Dwelling or other building provided the Association determines that no violations or damage has occurred by the Owner or their Builder/Contractor.

4.02 Architectural Review Committee.

- (a) All ARC authority is initially vested in the Developer. The ARC authority of the Developer shall cease upon the appointment of a three (3) member Architectural Review Committee by the developer. The Developer shall continue to have ARC authority as to any Plans and Specifications or Construction projects submitted to the developer prior to the initial appointment of the ARC members.
- (b) After the initial members of the ARC are appointed by the developer, the developer shall cause an instrument transferring ARC authority to the Association to be recorded in the Official Public Records of Real Property, Walker County, Texas. Subsequent appointments of the ARC members shall be by the Board of Directors. The ARC members shall serve staggered terms with the first term ending on the date of the next succeeding annual meeting of Members following the Transfer Control Date. After the Transfer Control Date, each Member of the ARC must be an Owner of a Tract in the Property.

4.03 Effect of Approval. The granting of an ARC approval shall constitute only an expression of opinion by the ARC that the proposed Improvement to be erected complies with these Restrictions; and such approval shall not prevent the Association from requiring removal of any Improvement which fails to comply with these Restrictions. Further, no member shall incur any liability by reason of the good faith exercise of the authority granted hereunder.

4.04 Variance. The ARC or the Developer, may on a case by case basis, authorize variances from the requirements of the Restrictions if, in the opinion of the ARC or the Developer, the Restrictions unreasonably restrain the development of a Tract in accordance with the general scheme of the Property. The developer will retain the right to grant variances after the Transfer Control Date so long as the Developer continues to own Tracts in the Property. All variances shall be in writing and signed by the Developer or if granted by the ARC then it must be signed by at least two (2) members of the ARC. No violation of these Restrictions shall be deemed to have occurred

with respect to any matter for which a variance is granted. The granting of such a variance shall not operate to waive any of the terms and provisions of these Restrictions for any purpose except as to the particular Lot and improvements and the particular provision covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the use of the Owner's Lot.

ARTICLE V
NEW WAVERLY TRIBUTE RANCH
PROPERTY OWNERS ASSOCIATION

5.01 Non-Profit Corporation. New Waverly Tribute Ranch Property Owners Association, a non-profit corporation, has been (or will be) organized and it shall be governed by the Articles of Incorporation and Bylaws of said Association; and all duties, obligations, benefits, liens and rights hereunder in favor of the Association shall vest in said corporation.

5.02 Bylaws. The Association has adopted, or may adopt, whatever Bylaws it may choose to govern the organization and operation of the Association, provided that the same are not in conflict with the terms and provisions hereof.

5.03 Membership. Every person or entity who is a record Owner of any Tract shall be a "Member" of the Association. The foregoing is not intended to include persons or entities that hold an interest merely as security for the performance of an obligation or those only having an interest in the mineral estate. Memberships shall be appurtenant to and may not be separated from the Tracts. Regardless of the number of persons who may own a Tract, there shall be but one membership for each Tract and one (1) vote for each Tract. Ownership of the Tracts shall be the sole qualification for Membership.

5.04 Voting Rights. The Association shall have two classes of voting memberships. Developer shall be entitled to ten (10) votes for each Lot owned. Each Tract, other than those owned by the Developer, shall have only one vote regardless of the number of Owners of the Tract. In the event that more than one person owns a Tract and the group of Owners do not have a unified vote for purposes hereunder, then the Association shall not recognize the vote for that Tract and such vote shall not be counted when the calculating membership votes. Notwithstanding the foregoing, the presence of any Owner of a Tract at a meeting of Members permits the inclusion of the Tract represented when calculating any necessary quorum. Compositing lots shall have the number of votes as the original number of lots as they pay Assessments on all consolidated lots. Tracts that are further subdivided as per Section 3.30 set forth herein, shall have one vote per lot.

ARTICLE VI
ASSESSMENTS

6.01 Assessments. Each Owner by acceptance of a deed therefore, whether or not it shall be expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association the Assessments provided herein. The Assessments shall be a charge on the Tracts and shall be a continuing lien upon the Tract against which each such Assessment is made. Both Annual and Special Assessments must be fixed at a uniform rate for all Tracts subject to

assessment and may be collected on a monthly basis or on an annual basis at the discretion of the Board of Directors.

6.02 Annual Assessment.

- (a) An Annual Assessment shall be paid by each of the Owners and the Annual Assessment shall be used to pay all reasonable and necessary operating expenses and reserve requirements of the Association as herein provided. The Annual Assessment for the year of purchase shall be pro-rated as of the purchase date and then shall be paid annually.
- (b) The initial amount of the Annual Assessment applicable to each Tract will be one hundred dollars (\$100.00) per Tract. The Annual Assessment is payable in advance and is due on the thirty first (31) day of January during each calendar year. All other matters relating to the collection, expenditure and administration of the Annual Assessment shall be determined by the Board of Directors of the Association, subject to the provisions hereof. Composite Lots shall pay the Annual Assessment based on the number of original lots. Subdivided lots shall each pay Assessments.
- (c) The Board of Directors of the Association, from and after the Transfer Control Date, shall have the further right at any time to adjust, alter, increase or decrease the Annual Assessment from year to year as it deems proper to meet the reasonable operating expenses and reserve requirements of the Association and to enable the Association to carry out its duties hereunder. However, the Board of Directors shall not increase the Annual Assessment by more than ten percent (10%) from the previous year without the affirmative Vote of the Members.

6.03 Special Assessments. In addition to the Annual Assessment, the Association, upon the Vote of the Members, may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted.

6.04 Interest of Assessment. Any Assessment which is not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of (i) the rate of eighteen percent (18%) per annum or (ii) the maximum rate permitted by law.

6.05 Creation of Lien and Personal Obligation. In order to secure the payment of the Assessments, each Owner of a Tract hereby grants the Association a contractual lien on such Tract which may be foreclosed, pursuant to the provisions of the Texas Property Code (and any successor statute); and each such Owner hereby expressly grants the Association a power of sale in connection therewith. The Association shall, whenever it proceeds with foreclosure pursuant to the provisions of the Texas Property Code, shall designate in writing a Trustee to post or cause to be posted all required notices of such foreclosure sale and to conduct such foreclosure sale. The Trustee may be changed at any time and from time to time by the association by means of written instrument executed by the President or any Vice-President of the Association and filed of record in the Official Public Records of Real Property of Walker County, Texas. In the event the Association has determined to non-judicially foreclose the lien provided herein pursuant to the provisions of the

Texas Property Code and to exercise the power of sale hereby granted, the Association, or the Association's agent, shall give notice of the foreclosure sale as provided by the Texas Property Code as then amended. Upon request by the Association, the Trustee shall give any further notice of foreclosure sale as may be required by the Texas Property Code as then amended and shall convey such Tract to the highest bidder for cash by Trustee's Deed. Out of the proceeds of such sale, if any, there shall first be paid all expenses incurred by the Association in connection with collecting the Assessments and foreclosing on the Tract, including reasonable attorney's fees and a reasonable trustee's fee; second, from such proceeds there shall be paid to the Association an amount equal to the amount of the Assessment in default; and third, the remaining balance shall be paid to the Owner or Lien Holder for the benefit of the Owner. Following any such foreclosure, each occupant of a Tract which is foreclosed upon shall be deemed a tenant at sufferance and may be removed from possession by any and all lawful means, including a judgment for possession in an action for forcible detainer.

In the event of non-payment by any Owner of any Assessment or other charge, fee, assessment levied hereunder, the Association may, in addition to foreclosing the lien hereby retained, and exercising the remedies provided herein, exercise all other rights and remedies available at law or in equity, including but not limited to bringing an action at law against the Owner personally obligated to pay the same.

It is the intent of the Provisions of this 6.05 to comply with the provisions of the Texas Property Code relating to non-judicial sales by power of sale. In the event of the amendment of the Texas Property Code, the Association, acting without joinder of any Owner or Mortgagee, may, by amendment to these Restrictions, file any required amendments to these Restrictions so as to comply with said amendments to the Texas Property Code or any other statute applicable to foreclosures.

Notwithstanding anything contained this Article VI, all notices and procedures relating to foreclosures shall comply with Chapter 209 of the Texas Property Code.

6.06 Notice of Lien. In addition to the right of the Association to enforce the Assessment, the Association may file a claim of lien against the Tract of the delinquent Owner by recording a Notice ("Notice of Lien") setting forth (a) the amount of the claim of delinquency, (b) the interest thereon, (c) the costs of collection which have been accrued thereon, (d) the legal description and street address of the Tract against which the lien is claimed, and (e) the name of the Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or other duly authorized agent of the Association. The lien shall continue until the amounts are fully paid or otherwise satisfied. When all amounts claimed under the Notice of Lien and all other costs and assessments which may have accrued subsequent to the filing of the Notice of Lien and all other costs and assessments which may have accrued subsequent to the filing of the Notice of Lien have been paid or satisfied, the Association shall execute and record a notice releasing the lien upon payment by the Owner of a reasonable fee as fixed by the Association to cover the preparation and recordation of such release of lien instrument.

6.07 Liens Subordinate to Mortgages. The lien described in this Article VI shall be deemed subordinate to any lien in favor of any bank, mortgage company, real estate lending

establishment, financial institution, insurance company, savings and loan association, or any other third party lender, including the Developer, who may have advanced funds, in good faith, to any Owner for the purchase, improvement, equity lending, renewal, extension, rearrangement or refinancing of any lien secured by a Tract, provided that any such lien holder has made due inquiry as to the payment of any required assessments at the time the lien is recorded. Any consensual lien holder who obtains title to any Tract pursuant to the remedies provided in a deed of trust or mortgage or by judicial foreclosure shall take title of the Tract free and clear of any claims for unpaid assessments or other charges against said Tract which accrued prior to the time such holder acquired title to such Tract. No such sale or transfer shall relieve such holder from liability for any Assessments or other charges or assessments thereafter becoming due. Any other sale or transfer of a Tract shall not affect the Association's lien for Assessments or other charges or assessments. The Association shall make a good faith effort to give each such mortgage sixty (60) days advance written notice of the Association's foreclosure of an Assessment lien, which notice shall be sent to the nearest office of such mortgage by prepaid United State registered or certified mail, return receipt requested, and shall contain a statement of delinquent Assessment or other charges or assessments upon which the said action is based, provided however, the Association's failure to give such notice shall not impair or invalidate any foreclosure conducted by the Association pursuant to the provisions of this Article VI.

6.08 Purpose of the Assessments. The Annual Assessments and Special Assessments shall be used exclusively for the purpose of promoting the health, safety, security and welfare of the Property and the maintenance of the Common Areas. In particular, the Assessments shall be used for any Improvement or services in furtherance of these purposes and the performance of the Association's duties described herein, including the maintenance of any drainage easements, Common Areas, Common Area Expenses, the enforcement of these Restrictions and the establishment and maintenance of reserve funds. The Assessments may be used by the Association for any purpose which, in the judgment of the Association's Board of Directors, is necessary or desirable to maintain the property value of the Property, including but not limited to, providing funds to pay all taxes, insurance, repairs, utilities and any other expense incurred by the Association. Except for the Association's use of the Assessments to perform its duties as described in these Restrictions, the use of the Assessments for any of these purposes is permissive and not mandatory. It is understood that the judgment of the Board of Directors as to the expenditure of Assessments shall be final and conclusive so long as such judgment is exercised in good faith.

6.09 Handling of Assessments. The collection and management of the Assessment shall be performed by the Developer until the Transfer Control Date, at which time the Developer shall deliver to the Association all funds on hand together with all books and records of receipt and disbursements. The Developer, and upon transfer, the Association, shall maintain a separate account for these funds.

6.10 Developer Exemption. In consideration of the Property infrastructure, the Developer shall be exempt from the payment of all Assessments.

ARTICLE VII

DEVELOPER'S RIGHTS AND RESERVATIONS

7.01 Period of Developer's Rights and Reservations. Developer shall have, retain and reserve certain rights as set forth in these Restrictions with respect to the Association from the date hereof, until the earlier of the date the Developer gives written notice to the Association of Developer's termination of the rights described in this Article VII or the Transfer Control Date. Notwithstanding the foregoing, the Developer rights set forth in Sections 7.02 and 7.03 shall not be released until such time as a document relinquishing said rights is filed of record or the Developer no longer holds record title to any portion of the Property. The rights and reservations hereinafter set forth shall be deemed accepted and reserved in each conveyance by the Developer whether or not specifically stated therein. The rights, reservations and easements set forth herein shall be prior and superior to any other provisions of these Restrictions and may not, without Developer's prior written consent, be modified, amended, rescinded or affected by any amendment to these Restrictions. Developer's consent to any amendment shall not be construed as consent to any other amendment.

7.02 Developer's Rights to Grant and Create Easements. Developer shall have and hereby reserves the right, without the consent of any Owner or the Association, to grant or create temporary or permanent easements throughout the Property, for ingress, egress, utilities, cable and satellite television systems, communication and security systems, drainage, water and other purposes incidental to the development, sale, operation and maintenance of the Property. The rights reserved to the Developer under this Section 7.02 apply to the entire Property.

7.03 Annexation of Additional Areas. Developer may cause additional real property to be annexed into Property, by causing a written Annexation Declaration confirming the annexation thereof, to be recorded in the Official Public Records of Real Property of Walker County, Texas. No consent shall be required of the Association or any Member thereof, each Owner being deemed to have appointed the Developer as his agent and attorney-in fact to effect this Annexation, which power hereby granted to the Developer is and shall be a power coupled with any interest. Thereafter, the Association shall be the Association for the entirety of the Development, including the annexed property.

7.04 Developer Control of Association and ARC. Until such time Developer elects to establish the Association and the ARC all authority and powers reserved to the Association, the Board of Directors or the ARC shall be held and exercised by the Developer. The Developer may elect to transfer control of the Association or the ARC at the same time or at different times in which case the Transfer Control Date may be different for the Association and the ARC. The initial Board of Directors of the Association, made up of Owners, shall be designated by the Developer.

ARTICLE VIII

DUTIES AND POWERS OF THE PROPERTY OWNER'S ASSOCIATION

8.01 General Duties and Powers of the Association. The Association has been formed to further the common interest of the Members. The Association, acting through the Board of Directors or through persons to whom the Board of Directors has designated 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 interest of the Members and to improve and enhance the attractiveness, desirability and safety of

the Property. The Board of Directors shall minimally be composed of three individuals serving three year staggered terms, with the titles of President, Vice-President, and Secretary/Treasurer, being assigned annually by the board of Directors.

8.02 Duty to Accept the Property and Facilities Transferred by Developer. The Association shall accept title to any real property, improvements to real property, personal property and any related equipment which the Developer transfers to the Association, together with the responsibility to perform any all maintenance and administrative functions associated therewith, provided that such property and responsibilities are not inconsistent with the terms of these Restrictions. Property interest transferred to the Association by the Developer 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 the Developer shall, except to the extent otherwise specifically approved by resolution of the Board of Directors, 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 any declaration of covenants, conditions and restriction or easements set forth in the transfer instrument. Except as otherwise specifically approved by resolution of the board of Directors, no property or instrument transferred to the Association by the Developer shall impose upon the Association any obligation to make monetary payments to the developer or any affiliate of the developer including, but not limited to, any purchase price, rent charge or fee.

8.03 Other Insurance and Bonds. The Association shall obtain such insurance as may be deemed necessary or desirable by the Board or by law, including but not limited to, comprehensive liability and casualty insurance, worker's compensation insurance, fidelity and indemnity insurance, officers and directors liability insurance, as well as such other insurances or bonds as the Association shall deem necessary or desirable.

8.04 Duty to Prepare Annual Budgets. The Association shall prepare an annual budget for the Association and deliver a copy of the annual budget to the Members along with, or prior to, the delivery of the invoice sent to each Owner for the Annual Assessment. The Association shall strive to deliver the annual budget and the Annual Assessment invoice at least thirty (30) days before the start of each calendar year.

8.05 Duty to Levy and Collect Assessments. The Association shall levy, collect and enforce the Assessments as provided in these Restrictions.

8.06 Duty to Provide Annual Financial Statement. The Association shall prepare an annual financial statement, including a balance sheet, for review by the Members.

8.07 Duties with Respect to Architectural Approvals. The Association, through the ARC, shall perform the ARC duties described in these Restrictions.

8.08 Power to Acquire Property and Construct Improvements. The Association may acquire property or an interest in property (including leases and easements) for the common benefit of Owners including any improvements and personal property. The Association may construct improvements on the Property and may demolish any existing improvements.

8.09 Power to Adopt Rules and Regulation. The Association shall have the power to make reasonable rules and regulations regarding the use of the Common Areas and any necessary rules and regulations for the safety, benefit and welfare of the Owners, or to otherwise carry out the powers and duties granted to the Association. The rules and regulations may be enforced in the same manner as any other provision of the Restrictions.

8.10 Enforcement of Restrictions. The Association (or any Owner if the Association fails to do so after reasonable written notice) shall enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of these Restrictions. Failure by the Association or any Owner to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter. If it becomes necessary for any Owner or the Association to file a Court action to enforce these Restrictions, the defaulting Owner shall be liable for all reasonable attorney's fees and costs incurred by the enforcing Owner or the Association to obtain compliance by the defaulting Owner. The defaulting Owner shall be liable for all damages suffered by the enforcing Owner or the Association which shall be in an amount established by the Court.

8.11 Remedies. In the event an Owner fails to remedy any violation of these Restrictions within ten (10) days after written notice by the Association, the Association, or its authorized representatives, may take any one or more of the following actions:

- (a) Enter upon the Owner's property and remove the violating condition, or cure the violation, at the expense of the Owner, and the violating Owner shall pay on demand all costs and expenses, including reasonable attorney's fees, incurred by the Association in removing such violating condition;
- (b) Assess a charge of \$50.00 per day against any Owner and/or his Tract until the violating condition is corrected. The Violation charge may be increased by the Association in accordance with increases in the National Consumer Price Index using 2019 as a base year. Failure to pay such assessment by the violating Owner within ten (10) days from receipt of assessment will result in a lien against the Tract with the same force and effect as the lien for Annual or Special assessments;
- (c) File suit in order to enforce the above remedies and/or pursue any other remedy which may be available at law or in equity.

After an Owner receives a written notice of a violation of these Restrictions, the violating Owner shall not be entitled to any further notice of the same violation if it occurs within a six (6) month period. The Association reserves the easement across each Owner's Tract for the purpose of correcting or removing conditions in violation of these Restrictions, and in doing so, shall have no liability for trespass or other tort in connection therewith, or arising from such correction or removal of a violating condition. The Association shall further have the right to have any vehicle or other property stored or used in violation of these Restrictions removed from the Owner's Tract at the expense of the Owner and stored at the expense of the Owner.

8.12 Authority to Combine ARC and Board. In order to efficiently manage the Association, and to perform the duties of the Association, the Association may elect to combine the duties of the Board of Directors and the duties of the ARC into one body to be known as the ARC/Board.

ARTICLE IX **COMMERCIAL RESTRICTIONS**

9.01 Commercial Use. Lots 3 and 5 in Section 1 and Lots 3, 4, 7, 8, 9, 11, 13, 14 and 17 in Section 2 of the Tribute Ranch Subdivision may be used for commercial purposes subject to the restrictions contained herein. All provisions of these Restrictions apply to the Commercial Tracts unless contradicted by the contents of this Article IX, then the provisions of Article IX control.

9.02 Prohibited Activities. The following is a list of Commercial Uses that are specifically prohibited:

- (a) Any use that in the sole discretion of the Developer, or the ARC after the Transfer Control Date, could create any dangerous, injurious, noxious, or otherwise objectionable noise, glare, smoke, dust, or other form of air pollution, liquid or solid refuse or waste, or other substance as to affect any use within the vicinity;
- (b) Any use that is obnoxious to or out of harmony with the development of a distinctive mixed-use office, retail, residential multi-family housing, condominium and general commercial use, including, but not limited to, any trailer court, junk yard, scrap metal yard or waste material business; any dumping, disposal, incineration or reduction of garbage or refuse, not including compacting devices that temporarily hold refuse for disposal off site; and any fire or bankruptcy sale or auction house operation;
- (c) Any use for the refining of petroleum or its products; smelting of iron, tin, zinc, or other ores; drilling for and/or removal of oil, gas, or other hydrocarbon substances;
- (d) Any business which sells, promotes, or allows nudity, profanity, or sexual material on premises;
- (e) Any excavations, removal of sand, gravel or soil except in connection with a grading and/or building construction plan approved as provided herein;
- (f) Any carnival or fair;
- (g) Any use devoted primarily to entertainment, such as an amusement park, amusement arcade, "bingo" parlor, or game center, other than fully enclosed entertainment venues such as movie theaters as specifically approved by the ARC in its sole discretion;
- (h) Any establishment that offers or sells paraphernalia associated with or related to illegal drug use;
- (i) Any manufacture of chemicals and/or chemical products and/or manufacture, distribution and/or sale of illegal narcotics and/or controlled substances;
- (j) Manufacturing;
- (k) Affordable Housing;
- (l) Apartments;
- (m) Industrial;

- (n) Warehouse Distribution;
- (o) Institutional; or
- (p) Cocktail lounge.

Developer or the ARC after the Transfer Control Date, may further clarify this provision to specifically restrict certain uses, in its sole discretion, by filing a Supplemental Declaration.

9.03 Permitted Uses. Commercial Uses that shall be permitted, subject to the approval provisions set forth in Section 9.05 ("Commercial Use") include, but are not limited to:

- (a) Gas station/convenient store;
- (b) Strip mall;
- (c) Oil change place; service station/lube;
- (d) Automotive parts store;
- (e) Restaurant;
- (f) Fast food, drive thru type facility;
- (g) Grocery store;
- (h) Townhomes, condominiums (subject to a two-story height limitation);
- (i) Nursing home;
- (j) Medical facility;
- (k) Office space;
- (l) Retail space;
- (m) Dog boarding or grooming facility;
- (n) Beauty shop/nail salon;
- (o) Medical offices for chiropractor, doctor or dentist;
- (p) Specialty Technical facility;
- (q) Educational facility;
- (r) Liquor store;
- (s) Mini storage;
- (t) Financial services (bank, etc);
- (u) Daycare;
- (v) Hobby farm (subject to the animal limitations set forth herein in Section 3.27);
- (w) Feed store; or
- (x) Car wash.

9.04 Other Uses. Uses that are neither specifically prohibited nor specifically authorized by these Restrictions may be permitted only if a description of such proposed use, in such detail as the ARC may reasonably request, is submitted to and approved in writing by the ARC in its sole discretion. Approval or disapproval of any such proposed use shall be based upon the effect of such use on other portions of the Property and upon the Owners or occupants thereof or upon the effect of such use on surrounding properties and upon the Owners or occupants thereof.

9.05 Commercial Plans. In addition to the required plan submitted set forth in Article IV, all Commercial Tracts shall submit the following Design Development Plan:

- A. The "Design Development Plan," which shall include:

1. a site plan (the "Site Plan") showing the location, dimensions, and orientations to boundary lines and the set back lines of proposed buildings, parking garages, other structures, means of ingress and egress, driveway, traffic patterns, dumpster location and proposed screening, sidewalks, fencing and other Improvements;
 2. a design elevation of, a core plan for, and a description of the foundation, height and size of each structure, including the Gross Building Area of each structure;
 3. a description and sample of the exterior materials for each structure;
 4. the number and location of parking spaces to be contained in parking garage structures, and the number and location of surface parking spaces;
 5. a general description of the type, size, and location of exterior signs;
 6. a description (the "Proposed Use Plan") of the proposed use of Improvements and the Tract; and
 7. grading and drainage plans including the elevation of all sanitary and storm sewer connections and the location of all utility connections.
- B. "Exterior Plan" shall mean drawings and details of all exterior surfaces, including the roof and mechanical equipment, showing elevations, and including the color, quality and type of exterior construction materials. The exterior of any Commercial building shall be subject to the requirements set forth in Article III herein but must be constructed from at least fifty percent (50%) masonry materials. Masonry materials includes masonry veneer, stucco, brick, rock and all other materials commonly referred to in the Walker County, Texas, area as masonry, and specifically excludes hardiboard or any synthetic material.
- C. "Lighting Plan" shall mean the type, style, size and candle power of all outdoor lighting fixtures.
- D. "Signage Plan" shall mean drawings and design specifications of all proposed exterior signs or graphics, including the colors thereof, the quality and type of materials to be used and the manner of illumination.

9.06 ARC Approval Required. No buildings, additions or Improvements shall be erected or placed on any Commercial Tract until the construction plans and specifications including, but not limited to, the Site Plan, Design Development Plan, Exterior Plan, Signage Plan, and Lighting Plan have been submitted and approved in writing by the ARC as hereinafter provided. The decision of the ARC shall be in its sole discretion and shall be final, conclusive and binding. The ARC may, in its guidelines, rules or otherwise provide for the payment of a commercial review fee in addition to the fee set forth in Section 4.01(b) for the review of a Design Development Plan. The ARC may provide that the amount of such fee shall be determined in any other reasonable

manner, such as based upon the reasonable cost of the proposed Improvement.

Approval of plans and specifications shall not cover or include approval for any other purpose and specifically, but without limitation, shall not be construed as any representation as to or responsibility for the design of the Improvement or the ultimate construction thereof. In the event the ARC fails to approve such plans and specification within sixty (60) days after the receipt thereof, they shall be deemed to be disapproved. The ARC or its assignee, at its sole discretion, is hereby permitted to approve in writing deviations in the general use restrictions set forth in 9.02 in instances where, in its judgment, such deviations will result in a more common beneficial use and enhance the overall development plan for the Property. The granting of a deviation by the ARC in one instance shall not be deemed a waiver on any right to withhold authorization of any similar deviation for any party in the future.

After approval of any proposed Improvement, the proposed Improvement shall be accomplished as promptly and diligently as possible and in strict conformity with the description of the proposed Improvement and any materials submitted to the ARC. Failure to complete the proposed Improvement within one (1) year after the date of approval (or such later date as may be permitted in writing by the ARC or set forth in any deed of the Tract from Developer to the Owner), subject to delays for causes beyond the reasonable control of the Owner, or to complete the Improvements in strict conformity with the description and materials furnished to the ARC, shall operate automatically to revoke the approval of the proposed Improvement. In this event of such automatic revocation of approval, construction plans and specifications must be resubmitted to the ARC for approval, along with any required fee.

9.07 Outside Storage or Operations. No outside storage or operations of any kind shall be permitted unless such activity is visually screened from public view in a manner that is architecturally compatible and approved in writing by the ARC. No boats, trailers, campers, horse trailers, buses, inoperative vehicles of any kind, camping rigs off truck, boat rigging, or other vehicles or associated equipment of a recreational or commercial nature shall be parked or stored permanently or semi-permanently on any Commercial Tract unless properly screened from public view in a manner approved in writing by the ARC. All retail sales equipment, fixtures and merchandise shall be displayed only in the interior of a building, unless done in a manner acceptable to the ARC. Water towers, cooling towers, communication towers, storage tanks, and other structures or equipment shall be architecturally compatible with the aesthetics of the project or effectively shielded from public view in a manner approved in writing by the ARC. All utility/service system components and trash pick-up stations shall be integrated with the building or screened by a fence or wall or compatible materials and shall not be visible above such screening.

9.08 Mechanical Equipment. All roof-top mechanical equipment shall be screened from the view of adjacent streets and buildings with material compatible with the building architecture or by the use of a parapet wall. Ground-mounted equipment such as power transformers and air conditioning equipment shall be screened from public view by fencing or landscaping and located in an approved location, all of which must be approved in writing by the ARC.

9.09 Grading and Drainage. Surface drainage shall be collected on-site and connected to

underground or surface storm drain structures as long as such action is not in violation of any local or state ordinance or statute. Care shall be taken not to cause damage to adjacent properties during construction or after completion of the project. In the event such damage occurs and is not repaired, the reasonable costs of remedying the damage may be collected from the Owner of the property where the construction activity occurred.

9.10 Underground Utilities. No pipe, conduit, cable, or line for water, gas, sewage, drainage, electricity, telephone or steam shall be installed or maintained (outside of any building) above the surface of the ground within any Commercial Tract, unless otherwise approved in writing by the ARC.

9.11 Exterior Illumination. Exterior illumination, if such is to be provided, shall be designed to light only buildings, parking areas and walkways and shall not produce glare on adjacent streets, Tracts, or adjoining properties. All ground level floodlighting fixtures shall be depressed or screened from public view in a manner approved in writing by the ARC. Parking area lighting, arcade lighting and all other illumination shall be approved in writing by the ARC.

9.12 Signage. Temporary and/or portable signs, flags and banners are prohibited. All permanent signs and their locations must be approved by the ARC in writing prior to installation. No sign of a flashing or moving character shall be installed and no sign, flag or banner shall project above the roof line of a building unless approved in writing by the ARC. Any sign, flag or banner installed without ARC approval may be removed by the ARC, without liability for trespass or other legal wrong by the ARC. For the purposes of this provision, signage shall include flags/flagpoles, banners, awnings, and canopies.

9.13 Temporary Structures. No temporary buildings or structure other than construction offices and structures for related purposes during the construction period shall be installed or maintained on any Tract without the prior written approval of the ARC. All temporary structures used for construction purposes must receive approval by the ARC with regard to location and appearance and must be removed promptly upon completion of construction.

ARTICLE X

GENERAL PROVISIONS

10.01 Term. The provisions hereof shall run with the land and shall be binding upon all Owners, their guests and invitees and all other persons claiming under them for a period of forty (40) years from the date these Restrictions are recorded. These Restrictions shall be automatically extended for successive periods of twenty (20) years each time unless these Restrictions are cancelled by a two-thirds (2/3) majority Vote of the Members and an appropriate document is recorded evidencing the cancellation of these Restrictions.

10.02 Amendments. With the exception of this Section and Sections 2.05 and 3.22 ,after the Transfer Control Date, except for any amendment affecting any existing Improvements, these Restrictions may be amended or changed, in whole or in part, at any time by a two-third (2/3) majority Vote of the Members. Copies of any records pertaining to such amendments shall be retained by the Association permanently.

10.03 Amendment by the Developer. The Developer shall have and reserve the right at any time prior to the Transfer Control Date, without the joinder or consent of any Owner or other party, to amend these Restrictions by an instrument in writing duly signed, acknowledged, and filed for record so long as the Developer owns at least one Tract of land and provided that any such amendment shall be consistent with and is furtherance of the general plan and scheme of development of the Property and evidenced by these Restrictions.

10.04 Severability. Each of these provisions of these Restrictions shall be deemed independent and severable and the invalidity or unenforceability or partial invalidity or partially unenforceability of any provision or portion hereof shall not affect the validity or enforceability of any other provision.

10.05 Liberal Interpretation. The provisions of these Restrictions shall be liberally construed as a whole to effectuate the purpose of these Restrictions.

10.06 Successors and Assigns. The provisions hereof shall be binding upon and inure to the benefit of the Owners, the developer and the Association, and their respective guests, invitees, heirs, legal representatives, executors, administrators, successors and assigns.

10.07 Effect of Violation on Mortgages. No violation of the provisions herein contained or any portion thereof, shall affect the lien of any mortgage or deed of trust presently or hereafter placed of record or otherwise affect the rights of the mortgage under any such mortgage, the holder of any such lien or beneficiary of any such mortgage, lien or deed of trust may, nevertheless, be enforced in accordance with its terms, subject, nevertheless, to the provisions herein contained.

10.08 Terminology. All personal pronouns used in these Restrictions, whether used in the masculine, feminine or neuter gender, shall include all other genders, the singular shall include the plural and vice versa. Title of Articles and Sections are for convenience only and neither limits nor amplifies the provisions of these Restrictions. The terms "herein", "hereof" and similar terms, as used in this instrument, refer to the entire agreement and are not limited to referring only to the specific paragraph, Section or Article which such terms appear.

IN WITNESS WHEREOF, the undersigned, being the Developer, herein, has hereunto set its hand on this the 28 day of December 2020.

Tribute Ranch, LLC, a Delaware limited liability company

By: 
Gary Sumner, Authorized Agent

STATE OF TEXAS

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COUNTY OF Walker

CERTIFICATE OF ACKNOWLEDGMENT

Before me, the undersigned Notary Public, on this day personally appeared Gary Sumner, who is personally known to me (or proved to me through a federal or state issued ID with photo and signature of person identified) to be the person whose name is subscribed to the foregoing instrument, and who has acknowledged to me that he is the Authorized Agent of Tribute Ranch, LLC and that by authority duly given and as the act of Tribute Ranch, LLC executed the instrument for the purposes and considerations expressed.

Given under my hand and seal of office on the 28 day of December 2020.

Shelby Ann Gehovak
NOTARY PUBLIC, State of Texas

