

DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR  
THE RANCH ON POSSUM KINGDOM  
PALO PINTO COUNTY, TEXAS

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
THE RANCH ON POSSUM KINGDOM  
PALO PINTO COUNTY, TEXAS**

This Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom, Palo Pinto County, Texas ("Declaration") is made this \_\_\_ day of December, 1997, by (i) The Ranch on Possum Kingdom, L.P., a Texas limited partnership (the "Declarant"), for itself and as attorney-in-fact for Guion Gregg, an individual, Steve Lipscomb, an individual, Timberstone Homes, Inc., a Texas corporation, and Possum Kingdom Venture, a Texas general partnership, and (ii) the Brazos River Authority, a river authority of the State of Texas (the "Authority").

**ARTICLE I.  
DECLARATION-PURPOSES**

**I.1 General Purposes:**

(a) Except as set forth in this Section 1.1(a), Declarant owns the real property hereinafter defined as The Ranch and intends to develop said property as a residential and recreational community designed to provide lodging and recreation for persons residing at or visiting The Ranch. The Ranch is a subdivision of record in Palo Pinto County, Texas, according to the map or plat of record in volume \_\_, page \_\_, Plat Records of Palo Pinto County, Texas, as it may be amended or modified from time to time (the "Plat"). The Authority owns that portion of The Ranch known as the Authority Lands (as defined below). Possum Kingdom Venture, Guion Gregg, Steve Lipscomb, and Timberstone Homes, Inc. each own one or more Units (as defined below) of The Ranch. Nothing in this Section 1.1(a) shall be deemed to grant or convey to any of the persons named herein any interest that such person did not own prior to the execution, delivery, and recording of this Declaration.

(b) The Ranch Owners Association, a Texas nonprofit corporation (the "Association"), has been formed to hold, manage and maintain certain property for the common benefit of some or all Owners, Lessees, and Guests within The Ranch; to administer and enforce the covenants, conditions, restrictions, reservations and easements created hereby; to collect and enforce the assessments, charges and liens imposed pursuant hereto; and for all other purposes set forth in the Articles of Incorporation of the Association. This Declaration defines certain rights and obligations of Owners, Lessees, and Guests within The Ranch with respect to the Association and with respect to Functions undertaken and Common Elements held by the Association.

(c) By this Declaration, Declarant and the persons named in Section 1.1(a) above intend to establish a means to provide for and maintain the area within The Ranch as a

pleasant and desirable environment for all persons residing at or visiting The Ranch.

I.2 **Declaration:** To further the general purposes herein expressed, Declarant and other persons named in Section 1.1(a) above, for themselves, their heirs, successors and assigns, as appropriate, hereby declare that all real property hereinafter defined as The Ranch, including any property added to The Ranch as hereinafter provided shall, at all times, be owned, held, used, occupied, sold and conveyed subject to the provisions of this Declaration and to the covenants, conditions, restrictions, reservations, easements, assessments, charges and liens herein contained, which shall run with the property defined herein as The Ranch and burden and benefit Declarant, all other parties having any right, title or interest in The Ranch, or any portion thereof, and their respective successors, assigns, heirs, devisees and personal representatives.

## **ARTICLE II. CURRENT DEFINITIONS**

II.1 **Additional Property:** Additional Property means the real property owned by the Declarant which is shown (but not platted) on sheet 1 of the Plat as "Proposed Section 2".

II.2 **Appurtenant Lot Lease:** Appurtenant Lot Lease means any lease by the Authority, as lessor, and the Declarant or an Owner, as lessee, of a lot which is a portion of a Class A Unit (as defined below), which lot is owned by the Authority and is depicted on the Plat by a letter prefix which is the letter identifier for the block in which the lot is shown, followed by an arabic number for the particular lot, followed by the suffix "B.R.A."

II.3 **Articles:** Articles means the Articles of Incorporation of The Ranch Owners Association, as the same may be amended from time to time.

II.4 **Association:** Association means The Ranch Owners Association, a Texas nonprofit corporation, and its successors and assigns.

II.5 **Association Documents:** Association Documents means this Declaration, the Plat, the Articles, the Bylaws and the Rules and Regulations, as the same may be amended from time to time.

II.6 **Authority:** Authority means Brazos River Authority, a river authority of the State of Texas.

II.7 **Authority Lands:** Authority Lands means lands owned by Authority abutting the shores of Lake and leased to the Declarant, the Association, and/or the Owners.

II.8 **Board of Directors:** Board of Directors means the board which shall act on behalf of the Association, as more particularly described and defined in the Bylaws.



II.9 **BRA Agreement:** BRA Agreement means that certain Agreement by and among The Ranch on Possum Kingdom, L.P., the Brazos River Authority, and Hill Country Harbor Village, L.P., dated December \_\_, 1997, together with the detailed leases, agreements, and exhibits referenced therein, as the same may be amended or supplemented from time to time.

II.10 **Bylaws:** Bylaws means the Bylaws of The Ranch Owners Association, as the same may be amended from time to time.

II.11 **Common Access Area Lease:** Common Access Area Lease means any lease by the Authority, as lessor, and the Declarant, as lessee, of a physical portion of the Ranch, other than a Unit, which areas are depicted on the Plat as Common Access Area Lots 1, 2, 3, 4, 5, 6, and 7.

II.12 **Common Elements:** Common Elements means, to the extent of the Association's interest in such real estate or improvements, any real estate within The Ranch (i) that is owned by the Association, (ii) that is owned by a Person other than the Association, but in which the Association has rights of use or possession pursuant to a lease, license, easement or other agreement, or (iii) that the Association is otherwise required to operate, manage, maintain or repair, together with any improvements located thereon.

II.13 **Common Expenses:** Common Expenses means allocations to reserves and all costs, expenses and liabilities incurred by or on behalf of the Association, including, but not limited to, costs, expenses and liabilities for (i) acquiring, leasing, renting, designing, constructing, managing, operating, maintaining, repairing or improving the Common Elements; (ii) administering or enforcing the covenants, conditions, restrictions, reservations or easements created by this Declaration; (iii) levying, collecting or enforcing the assessments, charges or liens imposed pursuant to this Declaration; (iv) regulating or managing The Ranch, including performing any and all Functions permitted by this Declaration; (v) operating the Association; (vi) paying rentals or any amount owing under any Appurtenant Lot Lease, Common Access Area Lease, or Point Lot Lease; and (vii) any other cost or expense legally incurred by the Association.

II.14 **Declarant:** Declarant means, collectively, The Ranch on Possum Kingdom, L.P., a Texas limited partnership, and any party that (i) acquires all or substantially all of the property in The Ranch and (ii) prior to or at the time of such acquisition is designed by a written instrument as a successor or assignee of Declarant under this Declaration. Such instrument may specify the extent and portion of the rights or interests as a Declarant which are being assigned, in which case The Ranch on Possum Kingdom, L.P. shall retain all other rights as Declarant.

II.15 **Declarant Control Period:** Declarant Control Period means the period commencing on the date on which Declarant forms the Association and ending on the date that Declarant owns less than 90% of the Units at The Ranch. After termination of the Declarant Control Period, Declarant, if still an Owner, will have all of the rights and duties given to Members under the Association Documents and will retain all of the rights belonging to Declarant under the Association

Documents (including without limitation the Special Declarant Rights) other than those which expire by their terms upon the expiration of the Declarant Control Period.

II.16 **Declaration:** Declaration means this instrument and all amendments or supplements hereto hereafter recorded in the real property records of Palo Pinto County, Texas, together with all Plats for The Ranch.

II.17 **Design Review Board:** Design Review Board means the Design Review Board established pursuant to Article X hereof.

II.18 **FERC:** FERC means the Federal Energy Regulatory Commission.

II.19 **Function:** Function means any activity, function or service required under this Declaration to be undertaken or performed by the Association as well as any activity, function or service otherwise undertaken or performed by the Association.

II.20 **Guest:** Guest means any family member, customer, agent, employee, independent contractor, guest or invitee of any Owner or Lessee, and any family member, customer, agent, employee, independent contractor, guest or invitee of such person or persons, entity or entities.

II.21 **Lake:** Lake means Possum Kingdom Lake located in Palo Pinto, Young, and Stephens Counties, Texas, which results from impoundment of waters of the Brazos River by Morris Sheppard Dam.

II.22 **Lessee:** Lessee means the person or persons, entity or entities who is the lessee under a lease on any part or all of a Unit for which the Declarant or an Owner is the lessor under such lease. The term Lessee shall not include the Association or any governmental entity.

II.23 **Member:** Member means each person or entity who holds a Membership in the Association.

II.24 **Membership:** Membership means a membership in the Association which is appurtenant to ownership of any Unit, and the rights granted to Owners pursuant to this Declaration to participate in the Association.

II.25 **Owner:** Owner means the record holder of (i) legal title to the fee simple interest and ownership of the leasehold interest in a Class A Unit; (ii) ownership of the leasehold interest in a Class B Unit; and (iii) legal title to the fee simple interest in a Class C Unit, in each case including contract sellers, but excluding (A) contract purchasers, (B) the Association and (C) those having such interest merely as security for the performance of any obligation. Each Owner shall also be the holder or holders of a Membership in the Association, which is appurtenant to ownership of such Unit. The term Owner shall include Declarant to the extent it is the record owner of a Unit.

II.26 **Person:** Person means any natural person, corporation, partnership, limited liability company, association, trustee or any other entity recognized as being capable of owning real property under the laws of the State of Texas.

II.27 **Point Lot Lease:** Point Lot Lease means any lease by the Authority, as lessor, and the Declarant or an Owner, as lessee, of a lot which constitutes a Class B Unit, which lot is owned by the Authority and is depicted on the Plat by the letter prefix F, followed by an arabic number for the particular lot, followed by the suffix "B.R.A."

II.28 **Project Lands:** Project Lands means that part of Authority Lands included in the project licensed by FERC as Project Number 1490 for generation of hydroelectric energy at Morris Sheppard Dam.

II.29 **Property:** Property means any and all real property subject to this Declaration from time to time.

II.30 **The Ranch:** The Ranch means all the real property located in Palo Pinto County, Texas, described in Exhibit A attached hereto, as well as all real property that becomes part of The Ranch as provided in this Section 2.30 and excluding all real property deleted from The Ranch as provided in this Section 2.30. All or any part of the Additional Property may become part of The Ranch and, in such event, shall be deemed to be within The Ranch and subject to all of the provisions contained in this Declaration upon the recording in the Office of the County Clerk and Recorder of Palo Pinto County, Texas, during the term of this Declaration, of a written instrument signed by Declarant containing a legal description of the additional real property and declaring that such additional real property shall become part of and shall be deemed to be within The Ranch. Any real property included in the definition of The Ranch pursuant to this Section 2.30 which is hereafter incorporated as or becomes a part of a municipal corporation may be excluded from and be deemed outside of The Ranch by the action of the Association and the written consent of Declarant upon the recording in the Office of the Clerk and Recorder of Palo Pinto County, Texas, of a written instrument signed by Declarant and the Association containing a legal description of the real property to be excluded and declaring that such real property shall be deemed to be outside The Ranch.

II.31 **Rules and Regulations:** Rules and Regulations means any instruments adopted by the Association or the Design Review Board for the regulation and management of The Ranch or any portion thereof, as the same may be amended from time to time. The Rules and Regulations shall comply with the terms of the BRA Agreement.

II.32 **Unit:** Unit means (i)(A) a physical portion of The Ranch that is designated for separate ownership and that may be conveyed in fee, together with (B) a physical portion of The Ranch owned by the Authority and leased to the Declarant or an Owner pursuant to an Appurtenant Lot Lease, which portion is adjacent to the portion described in the preceding clause (A) (collectively a "Class A Unit"); (ii) a physical portion of The Ranch designated for separate tenancy

that is owned by the Authority and leased to the Declarant or an Owner pursuant to a Point Lot Lease (a "Class B Unit"); and (iii) a physical portion of The Ranch designated for separate ownership and that may be conveyed in fee, and that has no adjacent portion of land under an Appurtenant Lot Lease (a "Class C Unit"). The term "Unit" shall include any improvements that may be constructed from time to time on the land. At present, there are 127 Units which are listed on Exhibit B attached hereto. Notwithstanding the foregoing, a parcel of land owned, held or used in its entirety (i) by the Association or any governmental entity, (ii) for or in connection with the distribution of electricity, gas, water, sewer, telephone, television or other utility service, or (iii) for access to the Lake or any property within or without The Ranch shall not be considered a Unit.

**ARTICLE III.  
CERTAIN OBLIGATIONS AND RIGHTS OF ASSOCIATION**

**III.1 Property Maintenance Function:**

(a) The Association shall provide for the care, operation, management, maintenance, repair and replacement of all Common Elements, including roadways. Moreover, the Association may provide for the care and maintenance of other areas of the Property if the Board of Directors, in its sole and exclusive discretion, deems such care and maintenance to be necessary or desirable for access to the boundary of or full utilization of any Unit or any improvements within The Ranch. Such function may include, without limitation, maintenance and care of open space or unimproved areas included in the Common Elements and of plants, trees and shrubs in such open space or unimproved areas; maintenance of lighting provided for parking areas, roads, walks, drives, and other similar Common Elements. The Board of Directors shall be the sole judge as to the appropriate maintenance, operation and management of the Common Elements and other areas of the Property.

(b) Unless otherwise agreed in writing, the Association shall be obligated to and shall provide for the care, operation, management, maintenance and repair of any Common Elements consisting of only a portion of, or defined space within, a building or other improvement owned by Declarant and shall be obligated to and shall bear and pay to Declarant

its proportionate share of Declarant's costs and expenses relating to such building or improvement as a whole, including without limitation, maintenance, taxes and assessments, insurance and depreciation. The proportionate share of the Association's costs and expenses relating to such building or improvement as a whole shall be determined by Declarant based on the actual amounts of such costs and expenses relating to such building or improvement as a whole multiplied by the ratio with a numerator which is the number of square feet of floor area of such defined space within the building or improvement and a denominator which is the number of square feet of floor area of the entire building or improvement.

(c) If, with respect to any Common Elements, Declarant reserves the right to

use all or part of such Common Elements for part of the time or the right to permit third parties to use all or part of such Common Elements for part of the time and Declarant actually exercises such reserved right, Declarant shall pay to the Association the fair rent value of the use of such Common Elements by Declarant or such third party, as determined by Declarant, based on the particular type of use, the portion of such Common Elements used and the time or periods of such use, or based on the actual rental payments, income or fees received by Declarant from any third party for such use, whichever is greater; provided, however, the payment by Declarant shall not exceed the costs and expenses of the Association with respect to such Common Elements including, without limitation, maintenance, taxes and assessments, insurance and depreciation. Declarant shall have the obligation, or shall impose on any such third party the obligation to restore any such Common Elements to a clean and orderly condition after each use.

**III.2 Public Health and Safety Function:** The Association may provide public health and safety services within The Ranch, including but not limited to, providing health care services and facilities, security personnel, security systems, fire protection facilities, and a fire water system which may include periodic fire prevention inspections and equipment certifications.

**III.3 Parking Function:** The Association may construct, purchase, lease, care for, operate, manage, maintain, repair or replace parking areas to accommodate Owners, Lessees, Guests, and members of the general public, including but not limited to, lighting, signs, landscaping and other similar facilities appurtenant to such parking areas. To the extent practicable, the Association shall maintain such parking areas so as to meet any requirements imposed on the Association or on Declarant with respect to The Ranch by any federal, state or local governmental agency.

**III.4 Vehicular Access Limitation Function:** The Association may provide control over vehicular access to The Ranch which it deems necessary or desirable for the health, safety or welfare of persons residing, visiting or doing business within The Ranch. Such function may include, without limitation, constructing, operating and maintaining access road control gates (at such location(s) as the Association may from time to time determine to be appropriate), restricting non-commercial vehicular traffic within The Ranch except for Owners, Lessees, or

Guests, and restricting commercial vehicular traffic within The Ranch. Owners and Lessees may be required to keep the Association informed of all persons who have overnight accommodations at such Owner's or Lessee's property in order to enforce the Rules and Regulations appropriately.

**III.5 Recreation Function:** The Association may provide for the construction, care, operation, management, maintenance, repair and replacement within The Ranch or on the Lake of courtesy boat docks, swimming pools, clubhouses, restrooms, grill areas, fire pits, sand beaches, playground equipment, picnic tables, volleyball courts, swim buoys, houseboats, foot and bicycle trails and related facilities, fishing piers, tennis courts, game or sports courts, game and special events areas, skeet ranges, fishing areas and facilities, baseball/softball fields, outdoor entertainment and other recreational amenities, and such equipment as may be appropriate for use in connection

therewith; and cleaning such facilities as necessary to permit their full use and enjoyment. The Association may also provide for recreational programs of suitable variety and such miscellaneous equipment as may be necessary therefor, including but not limited to, informing Owners, Lessees, or Guests of recreation available and stimulating their participation therein; conducting, operating, managing and maintaining programs for children, including but not limited to, day care facilities and such equipment as may be appropriate for use in connection therewith.

**III.6 Solid Waste Collection and Disposal Function:** The Association may provide for the collection, removal and disposal of all solid waste in The Ranch, including but not limited to, the construction, operation and maintenance of waste collection and/or disposal facilities. The Association shall have the power to adopt, amend and enforce Rules and Regulations to provide for the orderly collection and disposal of such waste.

**III.7 Animal Control Function:** The Association shall provide for regulations (and may provide for personnel and funds) to enforce animal control or exclude animals from The Ranch.

**III.8 Exterior Maintenance Function:**

(a) All Owners are expected to maintain their Units as required under this Declaration, and the Association does not intend to provide any exterior maintenance and repair of such property. If any Owner fails to maintain its Unit or related improvements or property or fails to perform any acts of maintenance or repair required under this Declaration, the Association may provide exterior maintenance and repair upon such property thereon pursuant to the provisions of Section 10.6. In addition, the Association may, without notice, make such emergency repairs and maintenance as may in its judgment be necessary for the safety of any person or to prevent damage to any other property. The costs of such exterior maintenance and repair shall be assessed against the Owner of such Unit and shall be a lien against and obligation of the Owner pursuant to Article V herein and shall become due and payable in all respects asset forth in Article V herein. For the purpose of performing the exterior maintenance authorized by this Section 3.8, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to any Owner, to enter upon such site during reasonable hours on any day. The Association or its designee is hereby granted an irrevocable license over all property in The Ranch to inspect in a reasonable manner property within The Ranch in order to determine whether any maintenance or repair is necessary under this Section 3.8.

(b) Neither Declarant, the Association, nor any of their respective directors, members, officers, agents or employees shall be liable for any incidental or consequential damages for failure to inspect any Unit or improvements or portion thereof or to repair or maintain the same. Declarant, the Association or any member of the general public, firm or corporation undertaking such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any Unit, improvements or portion thereof.

III.9 **Television Function:** The Association may provide for the installation, operation, maintenance, repair and replacement of satellite dishes, cable television, and related conduits, lines, equipment, and facilities.

III.10 **Water and Waste-Water Function:** The Association may provide for water and waste-water services or the installation, operation, maintain, repair and replacement of water or waste-water facilities, including a waste-water collection system which will serve all Units in Block F, Units G-1, G-2, and G-3, and Common Access Area Lot 5.

III.11 **Lease Management Function:** The Association or Declarant may renew or perform any covenant under any lease of Authority Lands leased to any Owner.

III.12 **Other Functions:** The Association may undertake and perform other functions as it deems reasonable or necessary to carry out the provisions of this Declaration, including without limitation, construction, care, operation, management, maintenance, repair and replacement of a central mailbox facility, and may provide the following services for some or all Owners, Lessees and Guests: a telephone answering service, concierge service, tree and bush chipping, mulching, and composting, and central monitoring of fire safety and property security.

III.13 **Insurance:** The Association shall obtain in its name and keep in full force and effect at all times all insurance that the Board of Directors deems necessary. Any loss covered by insurance maintained by the Association shall be adjusted with the Association in accordance with the terms and conditions herein. The insurance proceeds for any such loss shall be paid in accordance with the terms and conditions herein.

III.14 **Indemnification:** The Association shall be obligated to and shall indemnify Declarant and hold it harmless from all liability, loss, cost, damage and expense, including

without limitation attorneys' fees and disbursements, arising with respect to any operations of the Association or any Common Elements or Functions.

III.15 **Right to Make Rules and Regulations:** The Association shall be authorized to and shall have the power to adopt, amend and enforce Rules and Regulations applicable within The Ranch with respect to any Common Element or Function, and to implement the provisions of the Association Documents, including but not limited to, Rules and Regulations to prevent or reduce fire hazard; to prevent disorder and disturbances of the peace; to regulate pedestrian and vehicle traffic; to regulate animals; to protect wildlife; to regulate signs; to regulate weed and pest control on undeveloped property within The Ranch; to regulate use of any and all Common Elements to assure fullest enjoyment of use; to promote the general health, safety and welfare of persons residing, visiting and doing business within The Ranch; and to protect and preserve property and property rights. All Rules and Regulations shall comply with the Association Documents, the BRA Agreement, and any supplemental declarations of land use restrictions for The Ranch. The Rules and Regulations shall be reasonable and shall be uniformly applied, except such rules may

differentiate between the categories of Units, Owners, Lessees, and Guests. The Association may provide for enforcement of any such Rules and Regulations through reasonable and uniformly applied fines and penalties, through exclusion of violators from Common Elements or from enjoyment of any Functions, or otherwise. Each Owner, Lessee, and Guest shall be obligated to and shall comply with and abide by such Rules and Regulations and pay such fines or penalties upon failure to comply with or abide by such Rules and Regulations and such unpaid fines and penalties shall be enforceable in accordance with Article V.

**III.16 Charges for Use of Common Elements:** The Association may establish charges for use of Common Elements to assist the Association in offsetting the costs and expenses of the Association, including depreciation and capital expenses. All charges established under this Section 3.16 shall be reasonable and shall be uniformly applied, except such charges may reasonably differentiate between the categories of Units, Owners, Lessees, Guests, and Members. Each Owner, Lessee, and Guest shall be obligated to and shall pay any such charges for use.

**III.17 Charges for Functions:** The Association may establish charges for providing any service as required or permitted by any Function on a regular or irregular basis to an Owner, Lessee, or Guest to assist the Association in offsetting the costs and expenses of the Association, including depreciation and capital expenses. All charges established under this Section 3.17 shall be reasonable and shall be uniformly applied, except such charges may differentiate between the categories of Units, Owners, Lessees, and Guests. Each Owner, Lessee, and Guest shall be obligated to and shall pay any such charges for such services.

**III.18 Taxes:** The Association shall pay all ad valorem real estate taxes, special improvement and other assessments (ordinary and extraordinary), ad valorem personal property taxes, and all other taxes, duties, charges, fees and payments required to be made to any governmental or public authority which shall be imposed, assessed or levied upon, or arise in connection with any Common Elements or Functions.

**III.19 Right to Dispose of Common Elements:** Subject to Section 3.22(viii) below, the Association shall have the full power and authority to sell, lease, grant easements, rights-of-way, licenses, leases or concessions in or to, transfer, encumber, abandon or dispose of any Common Elements.

**III.20 Governmental Successor:** Any Common Element and any Function may be turned over to a governmental entity which is willing to accept and assume the same upon such terms and conditions as the Association shall deem to be appropriate upon the consent of the Members as provided in the Bylaws.

**III.21 Records:** The Association shall keep financial records sufficiently detailed to enable the Association to perform all functions set forth herein, including preparation of statements for assessments. All financial and other records shall be made available for examination by any Owner or such Owner's authorized agents during normal business hours and under other reasonable



circumstances. The Association may charge a reasonable fee for copying such materials.

**III.22 Implied Rights of the Association:** The Association shall have and may exercise any right or privilege given to it expressly in this Declaration or, except to the extent limited by the terms and provisions of this Declaration, given to it by law and shall have and may exercise every other right or privilege or power and authority necessary or desirable to fulfill its obligations under this Declaration, including without limitation the rights to:

(i) adopt and amend the Bylaws and Rules and Regulations of the Association;

(ii) adopt and amend budgets for revenues, expenditures and reserves and collect assessments, including without limitation assessments for Common Expenses, from Owners;

(iii) hire and terminate managing agents and other employees, agents and independent contractors;

(iv) institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Owners on matters affecting The Ranch;

(v) make contracts and incur liabilities;

(vi) regulate the use, maintenance, repair, replacement and modification of the Common Elements;

(vii) cause additional improvements to be made as part of the Common Elements, including the construction of capital assets, in whole or in part, for the benefit of some or all of the Owners, Lessees, and Guests, including without limitation, boat courtesy docks, water and waste-water facilities, swimming pools, clubhouses, restrooms, grill areas, fire pits, sand beaches, playground area, picnic areas, volleyball courts, foot and bicycle trails, fishing piers, baseball/softball fields, tennis courts, streets, lake access roads and other limited access roads, paths, walkways, sidewalks, and trails; boat ramps and launches; a central mailbox structure; gardens, man-made streams, waterfalls and water courses, sprinkler systems and other landscaping changes, improvements (including without limitation, removal of trees and other vegetation) and appurtenances; stock ponds and water tanks; cattle guards; fences and game fences; drainage facilities; monuments; recreational areas and facilities; parking areas; ducts, shafts and flues; conduit installation areas; storage facilities for supplies and equipment; earth walls, retaining walls; lighting; and signage;

(viii) acquire, hold, encumber and convey in its own name any right, title or interest in real or personal property; provided, however, that the fee interest of a Common Element may not be conveyed or subjected to a security interest unless (a) such action

receives a majority of the votes cast by the Members at a meeting called for such purpose; (b) such action is evidenced by a written agreement, or a written ratification of an agreement, executed in the same manner as a deed; and (c) such action does not deprive any Unit of its rights of ingress and egress;

(ix) grant easements, leases, licenses and concessions through or over the Common Elements. Without limiting the generality of the foregoing, the Association may grant easements, rights-of-way, leases, licenses and concessions to suppliers of utilities serving the Property or property adjacent to the Property and may grant such rights to developers or owners of property adjacent to the Property for the purpose of accommodating minor encroachments onto the Common Elements or other purposes that do not unreasonably interfere with the use and enjoyment of the Common Elements;

(x) impose and receive any payments, fees or charges for the use, rental or operation of Common Elements;

(xi) impose charges for late payments of assessments, recover reasonable attorneys' fees and disbursements and other costs of collection for assessments and other actions to enforce the rights of the Association, regardless of whether or not suit was initiated, and after notice and opportunity to be heard, levy reasonable fines and penalties for violations of the Association Documents;

(xii) impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid assessments.

(xiii) provide for the indemnification of the Association's officers and directors and maintain directors' and officers' liability insurance;

(xiv) assign its right to future income, including without limitation, its right to receive assessments (by way of example and not limitation, the Association may assign its right to receive assessments to secure financing for improvements to Common Elements or performance of Functions);

(xv) obtain and pay for legal, accounting and other professional services;

(xvi) perform any Function by, through or under contractual arrangements, licenses, or other arrangements with any governmental or private entity as may be necessary or desirable; and

(xvii) enjoy and exercise any other power of authority which similar associations may now or hereafter enjoy or exercise in the State of Texas.

### III.23 **Association Documents:**

(a) Each Owner shall comply with and may benefit from each term, provision, covenant, condition, restriction, reservation and easement contained in the Association Documents. The obligations, burdens and benefits of Membership in the Association touch and concern the property comprising The Ranch and are, and shall be, equitable servitudes and covenants running with the land for each Unit for the benefit of all other Units and the Common Elements.

(b) In the event that there is any conflict or inconsistency between the terms and conditions of this Declaration and the terms and conditions of the Articles, the Bylaws or the Rules and Regulations, the terms and conditions of this Declaration shall control. In the event that there is any conflict or inconsistency between the terms and conditions of Articles and the terms and conditions of the Bylaws or the Rules and Regulations, the terms and conditions of the Articles shall control. In the event of any conflict or inconsistency between the terms and conditions of the Bylaws and the terms and conditions of the Rules and Regulations, the terms and conditions of the Bylaws shall control.

**ARTICLE IV.  
THE RANCH AT POSSUM KINGDOM LAKE ASSOCIATION  
MEMBERSHIP AND VOTING**

**IV.1 Membership:**

(a) There shall be one Membership in the Association attributable to ownership of each Unit. Each such Membership shall be appurtenant to the Unit. The Owner of a Unit shall automatically be the holder of the Membership appurtenant to that Unit and title to and ownership of the Membership for that Unit shall automatically pass with ownership of the Unit. Each Owner of a Unit shall automatically be entitled to the benefits and subject to the burdens relating to the Membership for its Unit as set forth in the Association Documents as from time to time in force and effect. If ownership of a Unit is held by more than one person or entity, the Membership appurtenant to that Unit shall be shared by all such persons or entities in the same proportionate interest and by the same type of ownership as the Unit is held.

(b) Membership in the Association shall be limited to Owners.

**IV.2 Voting:**

(a) The Association shall have two classes of voting Membership as set forth below:

(i) Class A. Class A Members shall be all of the Owners of the Units other than the Declarant. A Class A Member shall be entitled to one vote for each Unit owned by such Class A Member.

(ii) Class B. The sole Class B member shall be the Declarant. The Class B Member shall be entitled to four votes for each Unit owned by such Class B Member.

(b) No change in the ownership of a Membership shall be effective for voting purposes unless and until the Board of Directors is given actual written notice of such change and is provided satisfactory proof thereof. If a Membership in any class is held by more than one person or entity and only one of the holders is present at the meeting, such holder is entitled to cast all of the votes allocated to that Membership. If, however, more than one of the holders are present, such holders may vote in any manner in which they all agree. If such holders cannot agree about how to cast their vote on any specific issue, no vote for that issue shall be recorded for their Membership.

(c) In any election of the directors, the candidates receiving the highest number of votes shall be deemed elected. Cumulative voting shall not be allowed in the election of directors or for any other purpose.

(d) The Authority shall have the right to receive notice of and attend meetings of Members of the Association, but shall have no right to vote on matters brought before the Members of the Association.

IV.3 **Declarant:** So long as Declarant is an Owner, Declarant will have all the rights and duties given to Members under the Association Documents, and will have all of the rights belonging to Declarant under the Association Documents (including, without limitation, the Special Declarant Rights) for the duration of those rights as set forth in the Association Documents.

**ARTICLE V.  
ASSESSMENTS, COMMON EXPENSES,  
OTHER AMOUNTS AND LIENS**

V.1 **Obligations for Assessments and Other Amounts:** Each Owner by acceptance of a deed to and/or leasehold assignment of its Unit, whether or not it shall be so expressed in any such deed, assignment or other conveyance, shall be deemed to covenant and agree, to pay to the Association all assessments, charges, fines, penalties, or other amounts, including the following (a) annual assessments; (b) special assessments to be fixed and established from time to time as provided in Section 5.3; and (c) special individual assessments levied against individual Owners (i) to reimburse the Association for extra costs for maintenance and repairs caused by the willful or negligent acts of the Owner or its Lessees and Guests, (ii) to reimburse the Association for costs incurred by the Association or Design Review Board resulting from any Owner's failure to comply with the terms and provisions hereof or such Owner's Appurtenant Lot Lease or Point Lot Lease, or (iii) to penalize the Owner for failure to comply with the terms and provisions hereof. The annual, special, and special individual assessments, together with late fees, interest, and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be continuing lien upon each Unit against which each such assessment is made. Each such assessment, together with such late fees, interest, and costs of collection thereof as hereinafter provided, shall also be the continuing personal obligation of the person who was the Owner of such property at the time when the assessment fell due. No Owner shall be exempt from liability under this Section 5.1 by waiving the use or enjoyment of any Common Element or by abandoning a Unit against which such assessments are made.

V.2 **Purpose of Assessments and Other Amounts:** The assessments levied and any charge, fine, penalty or other amount collected by the Association shall be used exclusively to pay expenses and other obligations that the Association may incur in performing any actions permitted or required under the Association Documents as from time to time in force and effect, including but not limited to, Common Expenses, the costs of constructing or purchasing Common Elements and performing Functions, repayment of debt and debt service, providing security for third party obligations as provided in the Association Documents, payment of rentals or other charges owing under leases for Appurtenant Lot Leases, Common Access Area Leases, and Point Lot Leases, and allocations to reserves. The Association may invest any funds allocated to reserves in a prudent manner. Unless expressly required by an Association Document, the Association need not refund or credit to Owners any excess funds collected by the Association.

V.3 **Special Assessments:** In addition to the annual assessment, the Association may levy in any year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the costs of (i) any construction or reconstruction, maintenance, unexpected repair or replacement of a described capital improvement upon the Common Elements, including the necessary fixtures and personal property related thereto, or (ii) any other unexpected expense.

V.4 **Allocation of Assessments:** Annual and special assessments shall be allocated to

each owner by multiplying such assessment times a ratio, the numerator of the ratio shall be the number of Units owned by such Owner, and the denominator of the ratio shall be the total number of Units within The Ranch. Notwithstanding the preceding sentence, no annual or special assessments shall be made against the Declarant during the Declarant Control Period; however, during the Declarant Control Period, the Declarant shall pay to the Association any shortfall in the annual and special assessments by the Association which are not collected from Owners. Notwithstanding the first sentence of this Section 5.4, (i) assessments for 90% of the estimated expenses pertaining to the central waste collection facility shall be allocated only, and in an equal amount, to the Units in Block F and Units G-1, G-2 and G-3, and (ii) assessments for rentals and other expenses pertaining to Common Access Area Lot 6 shall be allocated only, and in an equal amount, to the Units in Block F. Until the Association levies an assessment, Declarant shall pay all Common Expenses.

**V.5 Date of Commencement and Due Dates of Assessments:** The annual assessments provided for herein shall commence as to all Units upon the date hereof and shall be payable in advance, on the first (1st) business day of each January. For Units sold to an Owner by the Declarant, the assessment for a pro rata portion of the year shall be payable on the date the Unit is sold by Declarant to a buyer. The due date (or dates if it is to be paid in installments) of any special assessment under Section 5.3 shall be fixed in the resolution authorizing such assessment. Any special individual assessment shall be paid by the applicable Owner upon demand by the Association. The Association may levy a late payment fee equal to \$25 per month for each month that any assessment is delinquent. The Association may also charge interest on such amounts at the rate of 18 percent per annum, or such other interest rate as may from time to time be established by the Board of Directors not to exceed 18 percent per annum, from the date due and payable until paid. In addition, during the period of any delinquency, the Association may suspend an Owner's voting privileges or any other privileges to use or enjoy the Common Elements.

**V.6 Omission of Assessments:** The omission of the Board of Directors, before the expiration of any year, to fix the assessments hereunder for that or the next year, shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay the assessments, or any installment thereof for that or any subsequent year, and the annual assessment filed for the preceding year shall apply until a new annual assessment is made.

**V.7 Maintenance Fund: Working Capital Fund:**

(a) The Association may establish and maintain a maintenance fund for the periodic maintenance of the Common Elements into which funds collected from annual and special assessments pertaining to such maintenance shall be deposited. The Board may at any time ratably increase or decrease the amount of the annual assessments to such level as shall be reasonably necessary in the judgment of the Board to cover the estimated obligations of the Association under this Declaration, including provisions of reasonable reserves.

(b) The Association may establish a working capital fund for the initial

operation of the Common Elements in such amount as the Board shall determine.

**V.8 Collection and Enforcement:** The Association shall have a lien on each Unit (including improvements), securing payment of any annual, special or special individual assessment (including penalties), together with late payment fees and interest thereon as provided herein and reasonable attorneys' fees and costs incurred in the collection of same and the enforcement of said lien, whether or not suit is filed. The Association shall take such action as it deems necessary to collect assessments and may settle and compromise the same if it is in the best interest of the Association. Such liens shall be effective as and in the manner provided for herein and shall have the priorities established in the covenants, conditions and restrictions contained herein. The Association may (i) bring an action for a money judgment against any Owner for any unpaid assessment without foreclosing or waiving any lien securing same, or (ii) foreclose the lien against such Owner's Unit, or (iii) both, and late fees, interest, costs and reasonable attorneys' fees shall be added to the amount of such assessment. Each Owner, by his acceptance of a deed and/or leasehold assignment of a Unit, hereby expressly vests in the Association or its agent the right and power to bring all actions against such Owner personally for the collection of such assessments as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including, but not limited to, nonjudicial foreclosure pursuant to Texas Property Code Section 51.002 in force and effect on the date of this Declaration, or in accordance with the prescribed manner for foreclosure of deed of trust liens provided by any future amendment to such Section 51.002 or any other statute or article enacted in substitution therefor, and such Owner hereby expressly grants to the Board of Directors a power of sale in connection with said lien. Jessica L. Ellis is hereby appointed trustee, unless and until the Board of Directors shall designate a substitute or successor trustee, as hereinafter provided, to post the required notices as provided by law and conduct such foreclosure sale. The lien provided for in this Section shall be in favor of the Association and shall be for the common benefit of all Owners and shall have the same effect as though each Owner had expressly granted to the Association for the benefit of the Owners a deed of trust lien as well as a security interest in such Unit to secure the payment of the assessments provided for herein. In addition to such notices as required by the aforesaid statute, the trustee shall mail to the Owner or Owners and mortgagee of a Unit for which the assessment has not been paid, a copy of the notice of trustee's sale at or before the time of posting same by U.S. Postal Service, postage prepaid, certified, return receipt requested, at the Unit or such other address as the Board has been advised in writing for receipt of notices under this Declaration. At any foreclosure, judicial or nonjudicial, the Association shall be entitled to apply as a cash credit against its bid all sums due the Association, including late fees, interest, costs and attorneys' fees, covered by the lien foreclosed. From and after any such foreclosure, the former Owner or Owners, their successors, heirs and assigns, shall forthwith, upon such sale, surrender and deliver possession of the property upon demand, and the purchaser or his successors, heirs or assigns, shall be entitled to institute and maintain an action for forcible detainer of said property in the Justice of the Peace Court in the Justice Precinct in which such Unit, or any part thereof, is situated or in any other court of competent jurisdiction. The Association in any event is hereby authorized to appoint a substitute trustee, or a successor trustee, to act in the place of the trustee who posted the original notices without any formality other than the designation in writing of a substitute or successor trustee; and the authority hereby conferred upon

the Association shall extend to the appointment of other successor and substitute trustees successively until the delinquent assessment or assessments have been paid in full, or until said property is sold, and each substitute and successor trustee shall succeed to all the rights and powers of the original trustee appointed by the Association or its agents. The lien is prior to all other liens and encumbrances on a Unit except (i) liens and encumbrances recorded before the recordation of the Declaration, (ii) a first mortgage lien on the Unit which secures sums borrowed for the purchase or improvement of such Unit and which mortgage lien was recorded in the real property records of Palo Pinto County, Texas before the date on which the assessment or other charge sought to be enforced became delinquent, and (iii) liens for real estate taxes and other governmental assessments or charges against the Unit. The recording of this Declaration constitutes record notice and perfection of a lien of the Association on each Unit. No further recordation of any claim of any lien is required.

**V.9 Liability of Owner's Purchasers and Encumbrancers:** The amount of any assessment, charge, fine or penalty payable by any Owner, or with respect to such Owner's Lessees, Guests or Unit, shall be a joint and several obligation to the Association of such Owner and such Owner's heirs, devisees, personal representatives, successors and assigns. A Person acquiring ownership of a Unit shall be jointly and severally liable with the former Owner of the Unit for all such amounts which had accrued and were payable at the time of the acquisition of the Unit by such Person, without prejudice to such Person's right to recover any such amounts paid from the former Owner.

**V.10 Exempt Property:** The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein:

- (a) All properties dedicated and accepted by the local public authority and devoted to public use; and
- (b) All Common Elements.

**ARTICLE VI.  
CERTAIN RIGHTS OF DECLARANT, OWNERS  
AND ASSOCIATION**

**VI.1 Declarant's and Others' Easements and Related Rights:**

(a) Declarant hereby reserves for itself and its licensees, invitees, lessees, successors and assigns a perpetual easement on, over, upon, across, above, under and through the Common Elements as may be reasonably necessary to (i) discharge Declarant's obligations under this Declaration; (ii) exercise any Special Declarant Right; (iii) make improvements within The Ranch, or (iv) serve persons residing, visiting or doing business within The Ranch.



(b) All dedications, easements, rights-of-way, limitations, restrictions, and reservations shown on the Plat and all grants and dedications of easements, rights-of-way, restrictions, and related rights, made prior to the Property becoming subject to this Declaration are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set forth herein and shall be construed as being adopted in each and every contract, deed, or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Property. Declarant reserves the right to make changes in and additions to the said easements and rights-of-way for the purpose of most efficiently and economically developing the Property. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other person, to grant, dedicate, reserve or otherwise create, at any time or from time to time, rights-of-way and easements for public utility purposes (including without limitation, gas, water, electricity, telephone and drainage) in favor of any person along any front or side property line of any Unit, which easements shall have a maximum width of 20 feet (10 feet on either side of the side property lines).

(c) There is hereby created an easement upon, across, over, and under all of the Property for ingress and egress in connection with installing, replacing, repairing, and maintaining all utilities, including but not limited to, water, waste-water, gas, telephones, and electricity lines and appurtenances thereto; however, with respect to Units, such easements shall exist only over such areas depicted on the Plat. By virtue of this easement, it shall be expressly permissible for the utility companies and other entities supplying service to install and maintain pipes, wires, conduits, service lines, or other utility facilities or appurtenances thereto, on, above, across and under the Property, within the public utility easements from time to time existing and from service lines situated within such easements to the point of service on or in any improvement. Notwithstanding any provision contained in this section, no electrical lines, water lines, or other utilities or appurtenances thereto may be relocated on the Property until approved by Declarant or the Design Review Board. Subject to the BRA Agreement, the utility companies furnishing service shall have the right to remove all trees situated within the utility easements shown on the Plat, and to trim overhanging trees and shrubs located on portions of the Property abutting such easements.

(d) Timberstone Homes, Inc., Possum Kingdom Venture, Guion Gregg, Steve Lipscomb, and the Authority hereby grant and convey to Declarant and its licensees, invitees, lessees, successors and assigns, and Declarant hereby reserves for itself and its licensees, invitees, lessees, successors, and assigns, a perpetual easement on, over, upon, across, above, under and through each of the Units as may be reasonably necessary to construct, maintain, operate, repair, inspect, or drill, bore or plug holes for (i) water intake or reject lines which carry water from the Lake to the Unit or any other Unit and return water from such Unit or any other Unit to the Lake, or (ii) facilities, pipes, and conduits in connection with (A) the supply of water to the Unit, any other Unit, or any of the Common Elements, and (B) waste-water service to the Unit, any other Unit, or any of the Common Elements.

(e) The Declarant and Authority hereby reserve for themselves and their licensees, invitees, lessees, successors and assigns a perpetual easement on, over, upon, across, above, under and through Unit A1 for egress and ingress, and to inspect, construct, maintain, operate, repair, or

replace a dam measurement station owned by the Authority which is located on such Unit, or to construct such temporary or permanent structures as agreed to by Declarant and Authority to hide or improve the appearance of such measurement station.

(f) Declarant hereby reserves to itself and its licensees, invitees, lessees, successors and assigns (including any future Owners of the K1 Unit (the "Knoll Lot") and L1 Unit (the "Plateau Lot")), the right of ingress and egress over Common Area 5 to Unit K1 and over Common Area 2 to Unit L1, respectively, including ingress and egress for the construction of improvements upon such Units.

(g) Declarant hereby reserves to itself and to its licensees, invitees, lessees, successors and assigns, a perpetual non-exclusive license to graze cattle on Common Areas 1, 2, 3, 4, and 5.

(h) Declarant hereby reserves to itself and to its licensees, invitees, lessees, successors and assigns, a non-exclusive perpetual easement on, over, upon or across Common Area 1 for ingress and egress and to construct, maintain, operate, and repair (i) a cross on McAdam's peak, including lighting, seating areas, monuments for scripture, and for electrical lines to serve the lighting of such cross, and (ii) a chapel and related facilities on Lookout Ridge.

(i) Declarant hereby reserves to its licensees and invitees, not to exceed 24 persons per day, a non-exclusive perpetual easement on, over, upon or across all Common Elements from Monday through Friday to use and enjoy the recreational aspects of such elements.

## **VI.2 Rights and Obligations of Owners:**

(a) Subject to the provisions of this Declaration and the power of the Association to regulate the use of, and convey or encumber the Common Elements as set forth in the Association Documents, each Owner, and such Owner's Lessees and Guests shall have a nonexclusive easement over, upon, across and with respect to any Common Elements as appropriate and necessary for: access, ingress and egress to the Unit of such Owner, Lessee, or Guest; and to use the Common Elements and all other real property that shall become Common Elements (as described in Article IX below) for all other purposes.

(b) All rights, easements and obligations of an Owner under this Declaration and all rights of an Owner with respect to Membership under this Declaration are hereby declared to be and shall be appurtenant to the Unit owned by such Owner and may not be transferred, conveyed, granted, devised, bequeathed, encumbered or otherwise disposed of separate or apart from the ownership of such Owner's Unit. Every transfer, conveyance, grant, devise, bequest, encumbrance, or other disposition of a Unit shall be deemed to constitute a conveyance, grant, devise, bequest, encumbrance, transfer or disposition of such rights and obligations. A transfer of ownership of a Unit may be made by deed and/or assignment of leasehold (as appropriate), intestate succession, testamentary disposition, foreclosure of a deed of trust or mortgage of record or such other legal

process as is now effective or may hereafter become effective under the laws of the State of Texas. Any attempt to transfer a Membership in a manner other than those permitted by this Section 6.2 shall be null and void.

(c) Each Owner, by accepting a deed and/or leasehold assignment of ownership of a Unit, agrees to abide by the provisions of the Association Documents and to cooperate with the Association in its efforts to enforce such provisions.

(d) An equestrian facility currently exists on the Additional Property. Declarant hereby grants each Owner and such Owner's Lessees and Guests a perpetual non-exclusive license to use such facility, subject to the same fees and charges as the Declarant and its successors and assigns may charge the public for use of such facilities.

**VI.3 Common Access Easements:** The areas labeled on the Plats designated as "Common Access Area Lots 1, 2, 3, 4, 5, and 7" (each, a "Common Access Area Lot") are intended to provide common access to the Lake. Common Access Area Lot 5 is also intended for the recreational enjoyment of the Owners and their Lessees and Guests. The Owners shall have the right to use the Common Access Areas as access to the Lake and such other purposes set forth herein, provided that such use by one Owner does not interfere with the use and enjoyment by any other Owner. The operation, maintenance, repair and replacement of driveway accesses, boat launches or ramps, clubhouses, restrooms, grill areas, fire pits, sand beaches, playground areas, picnic areas, volleyball courts, foot and bicycle trails, courtesy boat docks, fishing piers, parking areas, fences, lighting, walkways and hand rails, on certain of the Common Access Area Lots shall be the responsibility of and shall be performed by the Association.

Common Access Area Lot 6 is for the recreational use and enjoyment only of Owners of Units in Block F and their Lessees and Guests.

**VI.4 Other Association Easements:** Declarant hereby grants to the Association, its licensees, invitees, lessees, successors and assigns, a nonexclusive, perpetual easement on, over, upon, across, above, under and through The Ranch and each portion thereof to (i) exercise any right held by the Association under this Declaration or any other Association Document, and (ii) perform any obligation imposed upon the Association by this Declaration or any other Association Document. Notwithstanding the foregoing, the Association shall not enter upon any Unit without reasonable prior notice to the Owner of the Unit, except in cases of emergency.

**VI.5 Other Easements:** Declarant hereby grants a nonexclusive perpetual easement across and over the Property for ingress and egress to all police, sheriff, fire protection, ambulance and similar emergency agencies or persons, now or hereafter serving the Property, to enter the Property in the performance of their duties.

**VI.6 Enjoyment of Functions and Common Elements:** Except for Common Access Area Lot 6, each Owner, Lessee, and Guest shall be entitled to use and enjoy any Common Elements

suitable for general use and the services provided by any Functions, subject to the Rules and Regulations and subject to such reasonable and uniformly applied charges which the Association may impose to offset costs and expenses, depreciation and capital expenses, subject to the provisions of this Declaration and subject to the following specific limitations. Such Rules and Regulations and charges may differentiate among the categories of Units, Owners, Lessees, and Guests, as established by the Board of Directors from time to time; however, the rules, regulations and charges must be uniformly applied within such categories. There shall be no obstruction of any Common Elements, nor shall anything be stored in or on any part of any Common Elements, without the prior written consent of the Association. Nothing shall be altered on, constructed in or removed from any Common Elements, except with the prior written consent of the Association. Nothing shall be done or kept on or in any Common Elements, that would result in the cancellation of the insurance or any part thereof which the Association maintains pursuant hereto or increase the rate of the insurance or any part thereof over the amount that the Association, but for such activity, would pay, without the prior written consent of the Association. Nothing shall be done or kept on or in such Common Elements, that would be in violation of any statute, rule, ordinance, regulation, permit or the requirement of any governmental body. No damage to, or waste of, Common Elements shall be committed, and each visitor and Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by such visitor, Owner or such Owner's Lessees or Guests. No noxious, destructive or offensive activity shall be carried on with respect to any Common Elements, nor shall anything be done therein or thereon which may be or become a nuisance to any other visitor, Owner or to any Lessee or Guest. All restrictions contained in Article VIII below shall be deemed to apply to the Common Elements.

**VI.7 Assignment of Rights or Obligations to a Lessee:** An Owner may assign or delegate to a Lessee all (but not less than all) of its rights under this Declaration as an Owner or as a Member and may enter into an arrangement with such Lessee under which the Lessee shall agree to assume all of such Owner's obligations hereunder as an Owner or Member, provided, however, that any such lease shall be for a term not less than six months and the Lessee shall use the Unit for residential purposes. The Association shall recognize any such assignment or delegation of rights or arrangements for assumption of obligations, provided that, to be effective with respect to the Association, Declarant or any other Owner, the assignment or delegation of rights or arrangement for assumption of obligations shall be in writing, shall be in terms deemed satisfactorily specific by the Association, and a copy thereof shall be filed with and approved by the Association. Notwithstanding the foregoing, no Owner shall be permitted to relieve itself of the ultimate responsibility for fulfillment of all obligations hereunder of an Owner arising during the period it is an Owner.

**VI.8 Special Declarant Rights:** Declarant hereby reserves for itself and its successors and assigns the following rights ("Special Declarant Rights"), which rights may be exercised at any time during the term of this Declaration, including but not limited to:

(a) the right to complete any improvements shown on any Plat, and the right to construct any improvement that Declarant deems necessary or advisable on any Common

Element or any property owned by Declarant, including, without limitation, clubhouse, swimming pool and related water conduits and facilities, restrooms, grill areas, fire pits, sand beaches, playground areas, volleyball courts, foot and bicycle trails, courtesy boat docks, fishing piers, parking areas, fences, lighting, hand rails, streets, lake access roads and other limited access roads, paths, walkways, sidewalks and trails; skeet range; lighted cross and monuments on McAdam's Peak; chapel on Lookout Ridge; observation towers; centralized mailbox facility; gardens, sprinkler systems and other landscaping changes, improvements (including without limitation, removal of trees and other vegetation) and appurtenances; water intake and reject lines; central waste-water treatment facility; stock ponds and water tanks; cattle guards; fences, including game fences; drainage facilities; monuments; recreational areas and facilities; parking areas; ducts, shafts and flues; conduit installation areas; storage facilities for supplies and equipment; earth walls, retaining walls; lighting; and signage;

(b) the right to construct and maintain sales offices, booths or other structures used for sales or promotional purposes, management offices and models on any Common Element or any property owned by Declarant. Declarant also reserves for itself and its successors and assigns the right to construct and maintain signs advertising The Ranch on any Common Element. The number, size and location of any such sales structures and signage, management offices or models or the relocation thereof shall be determined by the Declarant, subject to the approval of the Design Review Board;

(c) the right to add additional property to The Ranch pursuant to Section 2.30 above and to amend this Declaration in connection therewith, the right to amend this Declaration to create additional Units and Common Elements, the right to subdivide Units as provided in Section 8.24, the right to convert any and all Units into Common Elements, and the right to withdraw any and all portions of the Property from The Ranch;

(d) the right to use easements through the Common Elements for the purpose of making improvements within The Ranch or within real property which may be added to The Ranch; and

(e) the right to appoint and remove the directors during the Declarant Control Period as set forth in Section 6.9.

#### **VI.9 Declarant Right to Appoint:**

(a) Subject to the terms and conditions of subsection 6.9(b) below but notwithstanding anything else to the contrary contained in this Declaration or in any other Association Document, Declarant shall have the exclusive right to appoint and remove all of the directors of the Board of Directors of the Association during the Declarant Control Period. The Board of Directors shall elect the officers. The Board of Directors and officers shall take office upon election.

(b) Declarant may voluntarily surrender its right to appoint and remove directors prior to the expiration of the Declarant Control Period.

(c) Upon the expiration of the Declarant Control Period and so long as Declarant owns at least one Unit, the Declarant shall retain the right to elect one director and the remaining directors shall be elected by the Class A Members, which remaining directors must be (i) Owners other than the Declarant, or (ii) a designated representative of Owners other than the Declarant.

**VI.10 Right of First Refusal on Sale of Unit.** In the event any Owner, or a transferee or assignee of an Owner (the "Selling Owner"), voluntarily proposes to sell or voluntarily enters into an agreement to sell all or any part of its Unit, except in the case of a Permitted Transfer, the following provisions shall become applicable:

(a) **Notice:** The Selling Owner shall first give written notice (the "Option Notice") to the Declarant which notice shall identify the prospective purchaser and shall set forth in reasonable detail the terms and conditions upon which such sale is proposed to be made, and shall be accompanied by a copy of the bona fide offer and/or real estate contract. The Declarant shall have the right and option to purchase that portion of the Unit of the Selling Owner proposed to be sold upon the same terms and conditions as contained in the bona fide offer and/or real estate contract.

(b) **Interest Covered by Option:** The option granted herein to the Declarant must be exercised as to the entire interest being offered by the Selling Owner (the "Offered Interest"), unless the Selling Owner consents to a sale or conveyance of less than the entire interest.

(c) **Exercise of Option:** The Declarant if it elects to exercise the option set forth herein, shall, within THIRTY (30) days after receipt of the Option Notice, give written notice to the Selling Owner (the "Acceptance Notice"), signed by the Declarant evidencing its agreement to purchase the Offered Interest.

(d) **Closing of Sale:** Unless otherwise agreed to by the Selling Owner and the Declarant the closing on the sale of the Offered Interest to the Declarant shall take place at the principal place of business of the Declarant upon the later of (i) the date set forth in the bona-fide offer or real estate contract, or (ii) thirty (30) days after service of the Acceptance Notice.

(e) **Failure to Exercise Option:** If the option is not exercised within the time period set forth in paragraph (c) above, or if the Association defaults on its obligation to purchase the Offered Interest, the Selling Owner may sell or convey the Offered Interest within TEN (10) days thereafter to the prospective purchaser named in the Option Notice at a price and on terms no less favorable to the Selling Owner

than described in the Option Notice.

(f) **Subsequent Transfers:** The Selling Owner shall not otherwise sell or transfer the Offered Interest to any person after the termination of said TEN (10) day period without again complying with this Section.

(g) **Permitted Transfer:** Any reference to "Permitted Transfer" shall mean any transfer of a Unit by an Owner to Family Members, Family Trusts or Family Entities.

(h) **Family Members:** Any reference to "Family Members" shall mean an Owner's spouse, all children or more remote descendants [either natural or adoptive], all sons-in-law and daughters-in-law, or any trust of which one or more of such persons are current beneficiaries.

(i) **Family Trusts:** Any reference to "Family Trusts" shall mean any trusts of which the primary beneficiaries are one or more Family Members.

(j) **Family Entities:** Any reference to "Family Entities" shall mean any corporation(s), partnership(s), trust(s), limited liability company(ies) or other business entity(ies) which are controlled by Family Members. Control shall be deemed to exist if, more than FIFTY PERCENT (50%) of the beneficial or voting ownership interest in such entity or entities is owned by Family Members.

VI.11 **Easements of Authority:** Declarant hereby grants a non-exclusive easement in, across and over the roadways depicted on the Plat to the Authority for ingress and egress to any of the Authority Lands; provided, however, such easement is limited to (i) maintenance of such roadways by the Authority, and (ii) access to such Authority Lands for which a lease to the Declarant and/or an Owner has been terminated by the Authority; and such easements in (i) or (ii) shall be limited or terminated as provided in the BRA Agreement. Additionally, the Declarant hereby grants a non-exclusive easement to the Authority across and over such portions of the Authority Lands for such reasonable purposes of Authority, including construction of roads, drainage facilities, power, water, gas and other utility mains and lines as Authority deems necessary, provided, however, that Authority shall compensate Declarant and/or Owner as appropriate, for any and all substantial damages by Authority to Declarant's and/or Owner's improvements resulting from exercise of the Authority's rights under such easement.

## ARTICLE VII. CONSTRUCTION OF IMPROVEMENTS AND USE OF UNITS

VII.1 **Approval of Construction Activities:** Each Owner shall have the right to construct a building and other improvements on its Unit, provided that no building or other

improvements, including without limitation, any fence, wall, driveway, paving, walk, deck, patio, canopy, awning, roof, signage, water or waste-water facility (including septic tank), exterior lighting facility or landscaping, shall be constructed, erected, placed or installed upon any Unit, and no change or alteration of the materials or appearance (including color) of the exterior of a building or other structure shall be made and no change in the final grade of any Unit shall be performed, and no other construction activity shall be initiated on any Unit, until the approval of the Design Review Board and any governmental or quasi-governmental entity having jurisdiction over the Property has been obtained by such Owner. In this regard, without limiting the generality of the foregoing, each Owner is hereby advised and acknowledges that, in connection with any construction on its Unit, it must comply with the applicable provisions of the Association Documents, which documents include, among other things, the following: (i) procedures and necessary fees for making application to the Design Review Board for design review approval, including the documents to be submitted and the time limits in which the Design Review Board must act to approve or disapprove any submission; (ii) time limitations for the completion, within specified periods after approval, of the improvements for which approval is required under such documents; (iii) minimum and maximum square foot areas of living space that may be developed on any Unit; (iv) landscaping regulations, including restrictions set forth in the BRA Agreement prohibiting the removal or requiring the replacement of existing trees within the Project Lands, and such other restrictions and limitations pertaining to the use of plants indigenous to the locale and other practices benefitting the protection of the environment, aesthetics and architectural harmony of the Property; and (v) instructions and/or Rules and Regulations for the construction, reconstruction, refinishing or alteration of any improvement, including any plan to excavate, fill or make any other temporary or permanent change in the natural or existing surface contour or drainage or any installation of utility lines or conduits on the Property, addressing matters such as grading, transformers, meters, fire protection, loading areas, water storage, trash and debris removal, parking areas, outside storage, sanitary facilities, and conduct and behavior of builders, subcontractors and Owner's representatives on the Property at any time. In no event shall any Owner (other than an Owner of a Unit in Block F) be permitted to install a dock onto the waters of the Lake; Owners of Units within Block F shall comply with the BRA Agreement regarding the construction of docks, and shall obtain the written consent of the Authority and Design Review Board prior to construction of such docks. In no event shall an Owner make any improvement whatsoever upon any portion of his Unit within the Project Lands, except for lighted walkways that comply with the BRA Agreement and that have been approved in advance by the Authority and Design Review Board.

**VII.2 Residential Use:** The Units shall be used for single-family residential purposes only. No building or other structure shall be erected, altered, placed or permitted to remain on any Unit other than one (1) detached single-family residence per Unit, and necessary private garages, cabanas and storage buildings and other out-buildings, as provided below, which shall be constructed to minimum Federal Housing Authority ("FHA") and Veteran's Administration ("VA") standards, unless otherwise approved in writing by the Design Review Board (as hereinafter defined).

**VII.3 Single-Family Use:** Each residence may be occupied by only one (1) family



consisting of persons related by blood, adoption or marriage or no more than two (2) unrelated persons living and cooking together as a single housekeeping unit, together with any household servants. No portion of any Unit shall be used as a residence or for living or sleeping purposes other than a room designed for living or sleeping in a completed structure as agreed to in writing by the Design Review Board. No room in any structure shall be used for living or sleeping purposes by more persons than it was designed to accommodate comfortably.

VII.4 **Garage:** Each residence may have a garage or carport which conforms in design and materials with the main structure. No garage shall have an opening which faces or opens facing the street.

VII.5 **Side Line and Front Line Setback Restrictions:** No building structure shall be within certain building setback lines set forth on the Plat, including a variable distance to the front property line, fifteen (15) feet to the side property lines (except ten (10) feet with respect to Units in Block F), and a variable distance to the back property line, unless otherwise approved by the Design Review Board. For purposes of this Article VII, the side of the house facing the Lake shall be deemed the back property yard. The Design Review Board may grant variances with respect to such setback requirements in its sole discretion. Declarant may, from time to time, by appropriate instrument in writing and filed for record in Palo Pinto County, Texas, amend and alter the restrictions set out in this paragraph relative to the locations of improvements to be erected on the Units. In no event shall any building structure be within the Project Lands.

VII.6 **No Fences:** No fences, walls, or other barriers shall be permitted for the purpose of enclosing or demarcating any property boundaries without the prior written approval of the Design Review Board.

VII.7 **Mailboxes:** Mailboxes shall not be allowed.

VII.8 **No Duplication:** No house may substantially duplicate the exterior of any other house within any Block set forth on the Plat.

VII.9 **Outbuildings:** Outbuildings used for the purpose of housing domestic pets, storage, home shops and other related personal use shall be constructed in a similar or compatible manner to compliment the main dwelling, and shall require specific approval of the Design Review Board.

VII.10 **Gas Tanks:** When butane or propane tanks are installed on a Unit, they must be totally and permanently screened from public view from the street and all adjoining properties. Each Owner agrees to plant shrubbery so that tanks are totally and permanently screened through the year from public view and adjacent property.

VII.11 **Landscaping:** The front yards of all Units shall be landscaped pursuant to landscaping plans approved by the Design Review Board.

VII.12 **Water and Sanitation:** Each Unit with a structure designed for occupancy will, prior to occupancy, contain the water and sanitation facilities required in the BRA Agreement.

VII.13 **Building Height:** No improvement greater than thirty-five feet (35') in height may be constructed on any Unit without the prior written approval of the Design Review Board. For purposes of this paragraph, height shall be measured from the foundation slab of the proposed improvement to the ridge line of the roof of the proposed improvement.

VII.14 **Obstruction of Views:** No improvement may be constructed on any Unit which would unreasonably obstruct the view from other portions of the Property, and the positioning of all improvements upon Units within the Property is hereby expressly made subject to Design Review Board review. The Design Review Board may, but shall not be required to, prevent or allow the construction of a proposed improvement based upon the effect it will have upon the view from any particular Unit. Rather, the Design Review Board may consider the effect the improvement will have on the Property as a whole, it being expressly understood that neither the Design Review Board nor the members thereof shall be liable to any Owner in monetary damages or otherwise due to the construction of any improvement within the Property or the creating thereby of an obstruction to the view from such Owner's Unit or Units.

VII.15 **Building Materials; Dwelling Size:** All single family dwellings shall be of recognized standard construction quality and shall be constructed of at least seventy-five percent (75%) masonry or other material specifically approved in writing by the Design Review Board. All single family dwellings shall contain not less than 1,750 square feet of finished heated and air-conditioned living space, exclusive of porches (open or covered), decks, garages, and carports.

VII.16 **Construction in Place:** All dwellings constructed on the Property shall be built in place on the Unit and the use of prefabricated materials shall be allowed only with the prior written approval of the Design Review Board.

VII.17 **Alteration or Removal of Improvements:** Any construction, other than normal maintenance, which in any way alters the exterior appearance of any improvement, or the removal of any improvement shall be performed only with the prior written approval of the Design Review Board.

VII.18 **Roofing Materials:** All roofing materials must be approved in advance by the Design Review Board.

VII.19 **Driveway:** The Design Review Board shall have the right to impose limitations on driveway design, including materials, aprons, location, and point of contact with dedicated roads, streets, or private driveways in the subdivision. Driveways shall be constructed so that they have a sufficient rise in elevation to allow for the surface water drainage along the curb line of the street to continue without interruption or change in direction of flow. That portion of the driveway within the

front property setback line applicable to that Unit must be of the same material as the adjacent roadway.

**VII.20 Garbage Containers:** The Design Review Board shall have the right to require each Owner to specify a specific location for trash service and to require each Owner to construct a permanent facility at an approved location for the placement of garbage containers for collection purposes. Such permanent structure shall be of the same design and constructed of the same materials as (or of design and materials complimentary to) the exterior of the appurtenant single family residential structure.

**VII.21 Underground Utility Lines:** No utility lines, including but not limited to, wires or other devices for the communication or transmission of telephone or electric current or power, cable television, or other type of line or wire shall be erected, placed, or maintained anywhere in or upon any portion of the Property unless the same shall be contained in conduit or cables installed and maintained underground or concealed in, under, or on buildings or other improvements as approved in writing by the Design Review Board; provided, however, that no provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or other improvements which have been previously approved in writing by the Design Review Board. The installation method, including but not limited to, location, type of installation equipment, trenching method, and other aspects of installation, for both temporary and permanent utilities, shall be subject to review and approval by the Design Review Board.

**VII.22 Drainage:** There shall be no interference with the established drainage patterns over any of the Property, except by Declarant, unless adequate provision is made for proper drainage and approved by the Design Review Board.

**VII.23 Construction Activities:** This Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of improvements by an Owner (including Declarant) upon any Unit within the Property. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery or similar activities, provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. In the event that construction upon any Unit does not conform to usual practices in the area as determined by the Design Review Board in its sole good faith judgment, the Association shall have the authority to seek an injunction to stop such construction. In addition, if during the course of construction upon any Unit there is excessive accumulation of debris of any kind which would render the Unit or any portion thereof unsanitary, unsightly, offensive, or detrimental to it or any other portion of the Property, then the Design Review Board may contract for or cause such debris to be removed, and the Owner of the Unit shall be liable for all expenses incurred in connection therewith.

## ARTICLE VIII.

## **RESTRICTIONS APPLICABLE TO PROPERTY**

**VIII.1 Restriction of Certain Common Areas for Recreational Use:** Common Areas 1, 2, 3, 4 and 5 shall be used solely for (i) the grazing of cattle by Declarant and its licensees, and (ii) the recreational use and enjoyment of the Owners and their Lessees and Guests. There shall be no commercial or residential development permitted on such Common Areas 1, 2, 3, 4 and 5 except for a general store, ranch headquarters, employee housing, storage buildings, recreational facilities, monuments, signage, skeet range, fishing piers on stock tanks, chapel, lighted cross, fencing and trails consistent with ranching and recreational use, and such other developments which foster, promote or aid recreational use of The Ranch as determined by the Board of Directors. Common Areas 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19 shall be used solely (i) as parks, and (ii) for the recreational use and enjoyment of the Owners and their Lessees and Guests. There shall be no commercial or residential development permitted on Common Areas 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19, except for monuments, signage, fencing and trails consistent with ranching and recreational use, and such other developments which foster, promote or aid recreational use of the The Ranch as determined by the Board of Directors.

**VIII.2 Land Use Restrictions:** In addition to the restrictions found in this Article VIII, all or any portion of the Property shall be further restricted in its use, density or design according to (i) any supplemental declarations of land use restrictions for The Ranch recorded with the Clerk and Recorder of Palo Pinto County, Texas, if any such supplemental declarations are recorded prior to the time Declarant transfers or conveys any such Property to the Association or to any third party; (ii) the Rules and Regulations; (iii) and the BRA Agreement. Each Owner shall comply with all other terms, provisions, covenants, conditions, restrictions, easements and reservations on the Owner's part to be complied with under this Declaration and the BRA Agreement.

**VIII.3 Home Business:** A gainful home occupation, profession, trade or other nonresidential use will be a permissible use of a Unit, so long as (i) such use is permitted by law, (ii) such use is carried on entirely within a Unit and is secondary and incidental to its use as a residence, (iii) there is no external evidence of any such activity being conducted, (iv) the home occupation does not employ any nonresident of the Unit, nor does it attract any nonresident customers; (v) the Owner receives a permit therefor from the Association, which permit may be granted, denied or revoked in the Association's sole discretion, and (vi) the use is conducted in compliance with the Rules and Regulations.

**VIII.4 Maintenance of Property:** All Property, except for any portion of the Property then undergoing major construction, including all improvements on such Property, shall be kept and maintained by the Owner thereof in a clean, safe, attractive and sightly condition and in good repair, and no trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber or other building materials shall be permitted to remain exposed upon any Unit so that they are visible from, or are a nuisance in any way to, any neighboring Unit or any road.

**VIII.5 No Noxious or Offensive Activity:** No noxious or offensive activity shall be

carried on upon any Property nor shall anything be done or placed on any Property which is or may become a nuisance or cause any significant embarrassment, disturbance or annoyance to others.

**VIII.6 No Harassment of Wildlife:** No harassment of wildlife shall be permitted. With the exception of (i) bird feeders or other feeders approved by the Design Review Board, and (ii) stock feeders and water tanks as consistent with Section 8.1 above, the feeding, baiting, salting or other means of attracting wildlife to individual Units or Common Elements shall be prohibited.

**VIII.7 No Hazardous Activities:** No activities shall be conducted on any Property and no improvements constructed on any Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Property except upon Common Area 1, as set forth in the Rules and Regulations; and no open fires shall be lighted or permitted on any Property except (i) in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior wood or gas burning device, (ii) campfires or picnic fires on Property designated for such use by Declarant or by the Association and authorized in writing by Declarant or the Association, and fires required for clearing or maintenance of land which are controlled and attended by Declarant or Association, (iii) chimeneas, and (iv) firepits or outdoor fireplaces as approved in writing by the Design Review Board.

**VIII.8 No Unsightliness:** No unsightliness shall be permitted on any Property. Without limiting the generality of the foregoing:

(a) All unsightly structures, facilities, equipment, objects and conditions shall be kept within an enclosed structure at all times;

(b) Golf carts and garden or maintenance equipment shall be kept in an enclosed structure at all times, except when in actual use;

(c) Refuse, garbage and trash shall be kept in a covered container at all times;

(d) Service areas and facilities for hanging, drying or airing clothing or fabrics shall be kept within an enclosed structure;

(e) Pipes for water, gas, sewer, drainage or other purposes, wires, cables, poles, antennas and other facilities for the transmission or reception of audio or visual signals or electricity, utility meters or other utility facilities, gas, oil, water or other tanks, and sewerage disposal systems or devices shall be kept and maintained within an enclosed structure or below the surface of the ground, and no satellite dishes greater than 20" in diameter shall be permitted unless approved by the Design Review Board;

(f) No lumber, grass, shrub or tree clippings or plant waste, compost, metals, bulk materials or scrap or refuse or trash or unused items of any kind shall be kept, stored or allowed

to accumulate on any Unit; and

(g) No tennis courts shall be constructed on any Unit without the prior approval of the Design Review Board.

All enclosed structures shall comply with the Rules and Regulations of the Design Review Board as in effect from time to time. The Design Review Board shall have the power to grant a variance from the provisions of this Section 8.8 from time to time as it deems necessary or desirable.

**VIII.9 Lights, Sounds and Odors:** All exterior lighting of improvements and grounds on the Property will be subject to regulation by the Design Review Board. No light shall be emitted from any Unit which is unreasonably bright or causes unreasonable glare or shines directly onto an adjacent Unit; no sound shall be emitted from any Unit which is unreasonably loud or annoying; and no odor shall be emitted from any Unit which is noxious or offensive to others.

**VIII.10 Restriction on Animals:** No animals of any kind shall be raised, bred or kept on any Property except (i) domestic cats, dogs or other household pets permitted by the Association so long as they are (A) maintained in accordance with this Declaration, the Rules and Regulations and any other Association Document, and (B) not a nuisance or kept, bred or maintained for any commercial purposes, and (ii) the Declarant and its licensees and lessees may graze cattle on Common Areas 1, 2, 3, 4 and 5. No person shall allow any dog owned or controlled by such Owner to roam within The Ranch unattended. Dogs shall either be contained indoors or enclosed in a dog run or kennel constructed for the purpose of confinement in a manner approved by the Design Review Board. At all other times, dogs shall be on a leash and under the direct control and supervision of their owners. With respect to Units A1, A7, A8, A9, A10, A11, B1, B2, B8, B9, B10, B11, C1, and C2, horses may be quartered on such Units in a horse barn with not more than two stalls, except as otherwise approved by the Design Review Board on a case by case basis. Except as otherwise stated, horses shall not be kept overnight on an Owner's Unit or within the Common Elements.

**VIII.11 Restriction on Signs:** No signs or advertising devices of any nature shall be erected or maintained on any Unit in such a manner as to be visible outside any other Unit except signs approved by the Design Review Board, signs required by applicable law or legal proceedings), signs showing the name of the owners of the Unit (as approved by the Design Review Board), temporary signs to caution or warn of danger, or Association signs necessary or desirable to give directions or advise of Rules or Regulations.

**VIII.12 Restrictions on Parking:** Parking of vehicles on Property is permitted only within parking spaces constructed with the prior approval of the Design Review Board and such parking shall be used only for the parking of personal vehicles. The Association shall have the right to park any type of vehicle owned or used by the Association upon Property only within parking either built by Declarant or approved by the Design Review Board in such areas designated for such purpose by Declarant. Notwithstanding the foregoing, the Association may designate areas for off-

street parking on Property for the temporary parking of maintenance and delivery vehicles, for the sole purpose of assisting in a maintenance operation or to provide for the loading or unloading of such vehicles or to accommodate special circumstances.

**VIII.13 Restriction on Recreational Vehicles:** No motorcycle, moped, golf cart or other motorized recreational vehicle shall be operated within or on the Property, except for (i) licensed motorcycles and mopeds that are driven on the roadways; (ii) single-passenger "four-wheel" vehicles that are driven on the roadways or Common Areas 1, 2, 3, 4 or 5; and (iii) vehicular uses that are otherwise specifically permitted by the Rules and Regulations.

**VIII.14 Landscape Restriction:** No tree within the Project Lands may be cut absent prior written approval of the Authority. No tree or bush on any Unit may be cut, trimmed, or removed without the prior written approval of the Design Review Board. Vegetation on all Units must be maintained to minimize erosion and encourage growth of ground cover and all tree and shrub planting must be consistent with the landscaping plan approved by the Design Review Board.

**VIII.15 No Mining and Drilling:** Except for oil and gas leases, reservations, and easements existing prior to the date of this Declaration, no Property shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing oil, gas or other hydrocarbons, minerals, rocks, stones, gravel or earth.

**VIII.16 Mobile Homes, Travel Trailers and Recreational Vehicles:** No mobile homes shall be parked or placed on any Unit or used as a residence, either temporary or permanent, at any time. No boats, boat trailers, motor homes, travel trailers or recreational vehicles shall be parked on or near any Unit so as to be visible from adjoining property or from public or private thoroughfares at any time.

**VIII.17 General Practices Prohibited:** The following practices are prohibited at the Property: (i) removing any rock, plant material, top soil or similar items from any property of others; (ii) carrying loaded firearms on the Property, except within (A) private residences, and (B) Common Area 1 for skeet shooting and on the roadways shown on the Plat for ingress and egress to such skeet range; (iii) using surface water for construction; and (iv) disposing carelessly of cigarettes and other flammable materials. Notwithstanding the foregoing, the use of surface water for construction or the removal of rock, plant materials, top soil or similar items from the Property by Declarant or the Association pursuant to its easement rights shall be exempt from the application of this Section 8.17.

**VIII.18 No Fireworks:** No fireworks shall be permitted on any portion of the Property.

**VIII.19 No Flagpole:** No flagpoles shall be erected or constructed on any Unit, except for flagpoles not exceeding six feet in length mounted on the main residential structure.

**VIII.20 No Harvesting of Firewood:** No Owner may harvest firewood on any portion of the Property.

**VIII.21 Declarant's Exemption:** Nothing contained in this Declaration shall be constructed to prevent the exercise by Declarant of any Special Declarant Rights.

**VIII.22 Health, Safety and Welfare:** In the event additional uses, activities and/or facilities are deemed by the Board of Directors to be nuisances or to adversely affect the health, safety or welfare of Owners or the value of any Property, the Board of Directors may adopt Rules and Regulations restricting or regulating the same.

**VIII.23 Compliance with Law:** In addition to the compliance requirements set forth elsewhere herein, no Property shall be used, occupied, altered, changed, improved or repaired except in compliance with all present and future laws, rules, requirements, orders, directions, ordinances and regulations of the United States of America, State of Texas, County of Palo Pinto, the Authority, and any other municipal, governmental or lawful authority whatsoever, affecting the Property or the improvements thereon or any part thereof, and of all their departments, bureaus and officials, Furthermore, no Owner shall release, discharge or emit from the Property or dispose of, or allow any person under such Owner's control or direction to release, discharge or emit from the Property or dispose of, any material on, above or under the Property, that is designated as a pollutant or contaminant under any federal, state or local law, regulation or ordinance.

**VIII.24 Combination and Subdivision of Units:** No subdivision of a Unit is permitted, except that a Unit which is combined with another Unit may be later subdivided back into the original Units, if the following conditions are met: The applicant Owner of such property shall submit to the Authority, the Declarant and the Association for their separate review and approval, copies of the proposed subdivision documents (including survey and proposed plat), and such other information as may be reasonably requested by the Authority, the Declarant and/or the Association. Upon request, the applicant Owner shall also submit a deposit against attorneys' fees and costs which the Declarant and the Association will incur in reviewing and effectuating the application for approval, in an amount reasonably estimated by the Declarant and the Association. The Declarant and the Association shall separately approve and execute any plats, maps and owners' association declarations that are required for each such subdivision, or shall disapprove the documents. If such documents are disapproved by either Declarant or the Association, the disapproving party shall set forth the specific reasons for such disapproval, and the applicant Owner shall thereafter either modify its application to satisfy such concerns (while maintaining the approval of the other approving party) or terminate its subdivision application with Palo Pinto County. All costs and attorneys' fees incurred by the Association and the Declarant as a result of any application for approval shall be the sole obligation of the applicant Owner. No subdivision of Units shall be effected without the necessary amendments to the Plat.

**VIII.25 Violation:** Determination with respect to whether or not a particular activity or occurrence shall constitute a violation of this Article VIII shall be made by the Board of Directors after notice to the Owner shall be final.



**ARTICLE IX.**  
**COMMON ELEMENTS TO BE CONSTRUCTED BY DECLARANT**

IX.1 **Declarant's Obligation to Construct Common Elements:** Set forth below is a general description of every Common Element which Declarant is legally obligated to construct within The Ranch:

- (a) A courtesy dock with ten slips.
- (b) A central waste-water collection facility to be constructed on Common Area 19.

Except as set forth in this Section 9.1, Declarant is not legally obligated to construct any Common Element within The Ranch.

IX.2 **Common Elements Which May Be Constructed:** Set forth below is a general description of the type of any Common Element which Declarant anticipates may be constructed by, maintained by or operated by the Association (however, Declarant shall have no obligation to construct, maintain or operate any such Common Element):

Swimming pools, clubhouses, restrooms, grill areas, fire pits, sand beaches, playground areas, picnic areas, volleyball courts, foot and bicycle trails, skeet range, chapel, lighted cross, fishing piers, stock ponds and tanks, cattle guards, fences (including game fences), parking areas, streets, roads, paths, walkways, sidewalks, trails, drives, malls, stairs, security systems, lights, signage, access road control gates, and related facilities, tennis courts, game or sports courts, baseball/softball fields, game and special events areas, fishing areas and facilities, boat ramps and driveways, water intake and reject lines, outdoor entertainment and other recreational amenities and such equipment as may be appropriate for use in connection therewith, waste collection and/or disposal facilities, satellite dishes, cable television equipment and related facilities, telephone answering service facilities, warehouses, central laundry facilities, a central communications center, central mailbox facility, gardens, sprinkler systems and other landscaping improvements and appurtenances, ponds, water tanks, drainage facilities, monuments, recreational areas, storage facilities for supplies and equipment, earth walls, retaining walls, ducts, shafts and flues, conduits, utility and service lines and systems including but not limited to water, sanitary sewer, gas, storm drainage, telephone, electricity, cable and/or satellite television, and other communications lines and systems, management offices, environmental monitoring equipment or facilities, and such other buildings, facilities, structures and improvements as the Association may from time to time deem necessary or advisable.

**ARTICLE X.  
DESIGN REVIEW**

X.1 **Purpose:** In order to preserve the natural beauty of The Ranch and its setting, to maintain The Ranch as a pleasant and desirable environment, to establish and preserve a harmonious design for the community, and to protect and promote the value of Property, all exterior design, landscaping and use of all new development and additions, changes or alterations to existing use, landscaping and exterior design and development of any Unit shall be subject to design review.

X.2 **Objectives:** The design review process shall be conducted with the following objectives in mind for The Ranch:

(a) Compliance with the BRA Agreement and any Appurtenant Lot Lease or Point Lot Lease applicable to any Unit, including design and construction of buildings and placement of buildings within designated permissible areas of a Unit;

(b) Preventing excessive or unsightly grading, indiscriminate earthmoving or clearing of property, removal of trees and vegetation which could cause disruption of natural watercourse or scar natural landforms;

(c) Ensuring that the location and configuration of structures are visually harmonious with the terrain and vegetation of the land and with surrounding lots, structures and open space, and do not unnecessarily block scenic views from existing buildings or tend to dominate any general development or the natural landscape;

(d) Ensuring that the architectural design of structures and their materials and colors are visually harmonious with The Ranch's over-all appearance, history and cultural heritage, with surrounding development, with natural landforms and native vegetation, and adheres to or complies with development plans, zoning requirements, and other restrictions officially approved by Declarant, the Association or any government or public authority, if any, for the sites in which the structures are proposed to be located;

(e) Ensuring that plans for the landscaping of open spaces provide visually pleasing settings for structures on such Units and on adjoining and nearby Units and blend harmoniously with the natural landscape;

(f) Ensuring that any development, structure, building or landscaping complies with the provisions of this Declaration, including but not limited to, those provisions set forth in Article VII;

(g) Ensuring that building design and construction techniques respond to energy consumption and environmental quality considerations, such as heat loss, air emissions, and run-off water quality;

(h) Ensuring that design of residential structures provides rooms of types and standards generally consistent through The Ranch; and

(i) Ensuring that placement of structures provides visually pleasing and ample space between such structures and structures on other Units.

### **X.3 Design Review Board:**

(a) The Association shall establish a Design Review Board which shall consist of three members, all of which shall be appointed by the Board of Directors. The regular term of office for each member shall be one year, coinciding with the fiscal year of the Association. Any such member may be removed with or without cause by the Board of Directors at any time by written notice to such appointee. A successor or successors appointed by the Board of Directors to fill such vacancy shall serve the remainder of the term of the former member.

(b) The Board of Directors shall select the chairperson and vice-chairperson from among the members of the Design Review Board. The chairperson or in his or her absence, the vice-chairperson shall be the presiding officer of its meetings. In the absence of both the chairperson and the vice-chairperson from a meeting, the member present shall serve as acting chairperson at such meeting. All business of the Design Review Board shall be conducted at meetings which are open to Members of the Association; meetings shall be held at least once in each calendar month or more often upon call of the chairperson; all meetings shall be held at the offices of the Association or of Declarant, unless temporarily changed to another location by the members of the Design Review Board. Two members shall constitute a quorum for the transaction of business, and in the absence of a quorum the remaining member shall adjourn the meeting to a later time or date. In the absence of all members any representative of Declarant may adjourn the meeting to a later time or date. The affirmative vote of a majority of the members of the Design Review Board present at any meeting shall constitute the action of the Design Review Board on any matter before it. The Design Review Board shall operate in accordance with such rules of procedure as it may adopt; said rules shall be filed with the Association and maintained in the records of the Association and shall be subject to inspection by Members.

(c) The Design Review Board is hereby authorized to retain the services of one or more consulting architects, landscape architects or urban designers, who may also be members of the Design Review Board and entitled to vote in such capacity, and who need not be licensed to practice in the State of Texas, to advise and assist the Design Review Board in performing the design review functions prescribed in this Article X and in carrying out the provision of Article VII. Such consultants may be retained to advise the Design Review Board on a single project, on a number of projects, or on a continuing basis. Consultants who are also members of the Design Review Board shall disclose to the Design Review Board their interests in any project or matter before the board promptly after such project comes up for board consideration.

#### X.4 **Design Review Board Approval and Control:**

(a) In addition to the requirements set forth in Section 8.4 above and except as otherwise provided in Section 8.23, no Owner, Lessee, or Guest or the Association shall engage in or contract for the activities described in Section 8.4 above on any Property, Unit or Common Element or building or structure thereon, or change the use of any Property or building or structure thereon, unless the Design Review Board has approved the plans and specifications for the project, showing the nature, kind, shape, height, color, materials and location of same, and the construction procedures to be used to ensure compliance with Article VII, including compliance with land use restrictions made applicable to the Property by Article VIII. Alterations or remodeling which are completely within a building or the structure may be undertaken without Design Review Board approval, provided such alterations or remodeling do not change the use of the building or structure.

All actions taken by the Design Review Board shall be in accordance with Rules and Regulations established by the Design Review Board which shall be published as set forth in Section 10.5. Such Rules and Regulations may be amended from time to time by action of the Design Review Board that is consistent with and fulfills the purpose of this Declaration. The approval or consent of the Design Review Board on matters properly coming in before it shall not be unreasonably withheld, actions taken shall not be arbitrary or capricious and decisions shall be conclusive and binding on all interested parties, subject only to the right of appeal and review by the Board of Directors as set forth below; and such approval or consent shall not prohibit enforcement of the provisions of this Declaration under Article X. The Design Review Board or its designated representative shall monitor any approved project to the extent required to ensure that the construction or work on such project complies with any and all approved plans and construction procedures. The Design Review Board or its designated representatives may enter upon any Property at any reasonable time or times to inspect the progress, work status, or completion of any project. In addition to the remedies described in Article X, the Design Review Board may withdraw approval of any project thereby stopping all activity at such project, if deviations from the approved plan or approved construction practices are not corrected or reconciled within 24 hours after written notification to the Owner specifying such deviations.

(b) Any material to be submitted or notice to be given to the Design Review Board shall be submitted at the offices of the Declarant or at such other location as the Design Review Board may designate from time to time.

(c) All actions requiring approval of the Association pursuant to the provisions of Article X shall be deemed approved if such approval is obtained in writing from the Design Review Board.

X.5 **Design Standards and Construction Procedures:** The Design Review Board shall promulgate and publish design guidelines and Regulations (collectively, the "Design Rules and Regulations") that shall state the general design theme of all projects in The Ranch, specific design requirements, and the general construction procedures that will or will not be allowed in The Ranch. The Design Review Board shall also promulgate and publish Rules and Regulations that shall set

forth the procedures to be followed and material which must be provided by any Member or his or her authorized agents in order to obtain review of proposed construction by the Design Review Board. The Association shall be obligated for the cost of such publications and the Design Review Board shall make such publications available to Members.

**X.6 Exterior Maintenance:** Pursuant to the provisions of Section 3.8, the Design Review Board may, by the affirmative vote of a majority of the members of the Design Review Board present at any meeting, after 30 days' notice of such failure to the Owner of such Unit, request that the Association provide exterior maintenance and repair upon any Unit.

**X.7 Review Fee:** The Design Review Board may set a review fee schedule sufficient to cover all or part of the cost of Design Review Board time, consultant's fees, and incidental expenses. Applicants for design review may be required to deposit with the Design Review Board a fee which the Design Review Board deems sufficient to cover the cost of design review from which the actual costs shall be deducted when determined and the balance returned to the applicant following completing of the design review procedure.

**X.8 Enforcement of Restrictions:** Prior to the completion of construction or action subject to review under Section 10.4, the Design Review Board shall have primary responsibility to enforce the restrictions set forth in Article VII of this Declaration, the Design Rules and Regulations, and restrictions set forth in any supplemental declaration recorded in the records of Palo Pinto County, Texas; provided, however, that such responsibility shall not limit the right of Declarant or the Association to act under Article X. If the Design Review Board does not take action to enforce such restrictions within 15 days after being requested to do so by the Board of Directors, the Association may assume responsibility for enforcing such restrictions in any case in which the Design Review Board declined to act. Subsequent to the completion of construction or action subject to review under Section 10.4 the Association shall have primary responsibility to enforce such restrictions.

**X.9 Reconsideration, Review and Appeal:** Within seven days following action of the Design Review Board, its decision to approve or disapprove the project design shall be transmitted to the applicant and to the Association, and shall be made available to other members upon their written request. The Board of Directors may confirm, modify or reverse the decision of the Design Review Board within 20 days following the decision. The decision shall become final if no action is taken by the Board of Directors and no written request for reconsideration is made to the Design Review Board by the applicant or any aggrieved party within 20 days following the decision of the Design Review Board. If no action was taken by the Board of Directors and a request for reconsideration is timely made, the Design Review Board shall reconsider the matter at its next regularly scheduled meeting. The decision rendered upon such reconsideration shall be transmitted to the applicant, any aggrieved party and to the Board of Directors as set forth above, and shall become final if no written appeal to the Board of Directors is made to such decision within seven days following the date of notice of such decision. Not more than 60 days following the filing of an appeal by the applicant or aggrieved party, the Board of Directors shall review the action of the

Design Review Board and shall, in writing, confirm, modify or reverse the decision of the Design Review Board. If the Board of Directors deems insufficient information is available to provide the basis for a sound decision, the Board of Directors may postpone final action for not more than 30 additional days. Failure of the Board of Directors to act within 95 days from the date of the filing of the appeal shall be deemed approval by the Board of Directors of the design of the project unless the applicant consents to a time extension. Any decision by the Design Review Board or Board of Directors which results in disapproval of the project design shall specifically describe the purpose, development plan, covenant or provision of the Design Rules and Regulations with which the project does not comply and the manner of noncompliance.

X.10 **Lapse of Design Review Approval:** Approval of the design of a project shall lapse and become void one year following the date of final approval of the project, unless prior to the expiration of one year any required building permit is issued and construction is commenced and diligently pursued toward completion.

X.11 **Assignment of Function:** Any function to be performed by the Design Review Board pursuant to Article VII or Article X may be assigned to the Association in whole or in part at any time or from time to time by the Design Review Board in its discretion.

X.12 **Liability:** Neither Declarant, the Association nor the Design Review Board nor any of their respective officers, directors, employees or agents shall be responsible or liable for any defects in any plans or specifications submitted, revised or approved under this Article X nor for any defects in construction pursuant to such plans and specifications. Approval of plans and specifications under this Article X shall not be deemed in lieu of compliance by Owners or Lessees with applicable governmental laws or regulations.

## **ARTICLE XI. ENFORCEMENT AND REMEDIES**

### **XI.1 Enforcement:**

(a) Each provision of this Declaration enforceable against the Association or the Common Elements shall be enforceable by Declarant, the Authority, or any Owner by a proceeding for a prohibitive or mandatory injunction.

(b) Each provision of this Declaration enforceable against an Owner or Unit shall be enforceable by Declarant, the Authority, or the Association by a proceeding for a prohibitive or mandatory injunction or by suit or action to recover damages, or in the discretion of the Association, for so long as any Owner fails to comply with any such provisions, by exclusion of such Owner and/or such Owner's Lessees and Guests from the use of any Common Elements and from the participation in any Function.

XI.2 **Remedies:** In addition, if an Owner fails to perform or observe any covenant or condition on such Owner's part to be performed or observed under this Declaration or any other Association Document, the Association shall have the following rights and remedies:

(a) The Association may, but is not obligated to, cure such failure to comply at the Owner's, or other defaulting party's, sole cost and expense. If the Association cures any such failure to comply, such Owner shall pay to the Association the amount of all costs incurred by the Association in connection therewith within 30 days after the Owner receives a written invoice therefor from the Association.

(b) The Association may suspend the Owner's right to vote;

(c) Except as otherwise provided in any Association Document, and in addition to the fines provided for therein, the Association may fine the Owner an amount not to exceed \$1,000 for each violation. The Association may, in its sole and exclusive discretion, annually adjust for inflation the maximum amount of such fine. Each day any violation continues or is permitted to continue shall constitute a separate offense for purposes of levying such fine. The Owner shall pay any such fine to the Association within 30 days after the Owner receives written notice thereof.

(d) The Association shall have all other rights and remedies available to it under Association Documents, at law or in equity. All rights and remedies of the Association shall be cumulative and the exercise of one right or remedy shall not preclude the exercise of any other right or remedy.

## **ARTICLE XII. SPECIAL DISCLOSURE MATTERS**

Each Owner is hereby advised of the following matters affecting the Property and the use and enjoyment thereof:

The Property is or may be located in close proximity to one or more of the following: Possum Kingdom Lake and recreation area(s), tennis courts, swimming pools, skeet range, cliff areas, equestrian stables and facilities, and wildlife areas (collectively, the "Hazard Areas"). All of these areas create or contain certain hazards associated with the character or use of such area. Such areas may also generate an unpredictable amount of visible, audible and odorous impacts and disturbances from activities relating to the construction, operation, use and maintenance thereof.

The activities associated with the Hazard Areas may include without limitation: (i) vehicular and pedestrian traffic, including without limitation, boats which transport persons on The Ranch to neighboring marinas or docks, (ii) construction vehicles and equipment, (iii) tree cutting and clearing, grading and earth-moving, and other construction activities, (iv) construction,

operation and maintenance of roads, and (v) activities relating to the use of the Hazard Areas, including, without limitation, boating, water skiing, swimming, hiking in areas including tall cliffs without handrails, horseback riding, bicycling, motorized "four-wheeling," and other recreational activities and organized events and competitions relating to such activities.

Other hazards created by the Hazard Areas may include, but are not limited to, obstructed views, damage or injury caused by the general public, and death, personal injury, or property damage caused by wild animals, including snakes and reptiles. Moreover, access to certain common areas shall be restricted from time to time, and substantial construction-related activities relating to the development of the Property or other development within or near The Ranch may cause considerable noise, dust and other inconveniences to the persons residing, visiting or doing business in The Ranch.

Each Owner, by accepting a deed to a Unit and/or an assignment of a leasehold to a Unit or any interest therein, acknowledges that the impacts, disturbances, hazards and activities described above may occur in and around such Unit and the Property, and each Owner by accepting a deed to a Unit and/or an assignment of a leasehold or any interest therein, for itself and its Lessees, Guests, successors and assigns, hereby forever waives and releases any claims which such Owner may have against the Declarant and its respective successors and assigns, as a result of, arising out of or in any way relating to the impacts, disturbances, hazards and activities described above.



**ARTICLE XIII.  
CASUALTY AND CONDEMNATION**

**XIII.1 Casualty:**

(a) In the event of damage or destruction to any part of the Common Elements due to fire or other adversity or disaster, any insurance proceeds shall be collected by and paid to the Association and such insurance proceeds, if sufficient to reconstruct or repair the damage, shall be applied by the Association to such reconstruction and repair. If the insurance proceeds with respect to such damage or destruction are insufficient to repair and reconstruct the damaged or destroyed Common Elements, as applicable, or if there are no insurance proceeds, the Board of Directors shall levy a special assessment pursuant to the Association Documents in the aggregate amount of such deficiency and shall proceed to make such repairs or reconstruction. Notwithstanding the foregoing, the Association shall have no obligation to repair or reconstruct the damaged or destroyed Common Element; if such repair or reconstruction would be prohibited by the BRA Agreement or would be illegal under any state or local statute or ordinance governing health or safety, or if within 60 days after such damage or destruction 80 percent of the votes of the Members of the Association are cast to not rebuild. The special assessment provided for herein shall be a debt of each Owner and a lien on its Unit, and may be enforced and collected in the same manner as any assessment lien provided for in the Association Documents. If 80 percent of the votes of the Members of the Association elect not to rebuild any damage or destruction to the Common Elements in accordance with the terms and provisions set forth above, the Association shall demolish any destroyed or damaged improvements, remove all debris and rubble caused by such demolition and return the damaged or destroyed area to a slightly condition and shall have the right to levy against and collect from the Owners a special assessment for this limited purpose, if necessary.

(b) In the event of damage or destruction of the improvements located on any Unit or any part thereof (other than any Common Element which is governed by Section 13.1 (a)) due to fire or other adversity or disaster, the Owner of such Unit shall, at its sole cost and expense, with due diligence, either (i) cause the damaged or destroyed improvements to be repaired and restored to a condition comparable to that prior to the damage or destruction, or (ii) demolish the destroyed or damaged improvements, in which event the damaged or destroyed improvements shall forthwith be demolished and all debris and rubble caused by such demolition shall be removed and the affected Unit regraded and landscaped. If such repair or restoration or such demolition, debris removal, regrading and landscaping is not commenced within 180 days from the date of such damage or destruction, or if the same is commenced but then abandoned for a period of more than 90 days, the Association may, after notice and an opportunity to be heard, impose a fine of \$1,000.00 per day or such other rate imposed by the Board of Directors, charged against the Owner of the Unit until such repair or restoration or such demolition, debris removal, regrading and landscaping is commenced or re-commenced, as the case may be. Unless the Owner can prove to the satisfaction of the Board of Directors that such failure is due to circumstances beyond the Owner's control, such fine shall be in addition to any assessment to which such Owner's Unit is subject and the Association shall have all of the rights pertaining to a special individual assessment specified in the Association

Documents for such amount.

### **XIII.2 Condemnation:**

(a) In the event the Common Elements, or any portion thereof, shall be taken for any public or quasi-public use, under any statute, by right of eminent domain or by purchase in lieu thereof (herein, a "taking"), each Owner will be entitled to notice thereof, but the Association will act as attorney-in-fact for all Owners in the proceedings incident to the taking unless otherwise prohibited by law. The award for such taking will be payable to the Association as trustee for all of the Owners to be disbursed as follows:

(i) If the taking involves a portion of the Common Elements on which improvements have been constructed, then, unless restoration or replacement of such improvements would be illegal under any state or local statute or ordinance governing health or safety or unless within 60 days after such taking 80 percent of the votes of the Members of the Association elect not to restore or replace such improvements, the Association will restore or replace such improvements so taken on the remaining land included in the Common Elements to the extent lands are available therefor, in accordance with plans approved by the Board of Directors, the Design Review Board, the Authority, and any other governmental or quasi-governmental entity having jurisdiction over the Property. If such improvements are to be restored or replaced, and the award for the taking is insufficient to restore or replace such improvements the Board of Directors shall levy a special assessment in the aggregate amount of such deficiency and shall proceed to restore or replace such improvements.

(ii) If the taking does not involve any improvements, or if there is a decision made not to restore or replace as set forth above, or if there are net funds remaining after any such restoration or replacement of improvements is completed, then the Association may retain such excess proceeds or distribute such excess in proportionate shares on the basis of the annual assessment levied against such Units for the prior 12-month period.

(b) In the event any Unit, or any portion thereof (other than any Common Element which is governed by Section 13.2(a)), shall be taken, the condemnation award for such taking shall be paid solely to the Owner of such Unit. The repair or restoration of any improvements located on such Unit which are affected by the taking shall be governed by the terms of Section 13.1(b). If an entire Unit shall be condemned, the Owner thereof shall automatically cease to be a Member of the Association.

**ARTICLE XIV.  
MISCELLANEOUS**

**XIV.1 Duration of Declaration:** The covenants, conditions, restrictions, reservations, easements, assessments, charges and liens as set forth in this Declaration shall run with and bind The Ranch for a period of 20 years from the date of recordation of this Declaration, after which they shall be automatically extended for successive ten-year periods, unless at least one year prior to the expiration of any such ten-year period of extended duration, this Declaration is terminated by a recorded termination agreement that has been authorized and executed by 75% (or more) of the votes of the Members of the Association.

**XIV.2 Amendment:** Any provision contained in this Declaration may be amended or repealed only by the affirmative vote, consent or agreement of at least 75% of the votes of the Members of the Association. Any such amendment or repeal shall be evidenced by a written instrument or instruments specifying the amendment or the repeal, executed by the Declarant and the Association, and recorded in the Office of the County Clerk and Recorder of Palo Pinto County, Texas.

**XIV.3 Effect of Provisions of Declaration:** Each provision of this Declaration, and any agreement, promise, covenant and undertaking to comply with each provision of this Declaration, and any necessary exception or reservation or grant of title, estate, right or interest to effectuate any provision of this Declaration:

(a) shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any real property within The Ranch is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument;

(b) shall, by virtue of acceptance of any right, title or interest in any real property within The Ranch by an Owner or the Association, be deemed accepted, ratified, adopted and declared as a personal covenant of such Owner or the Association, as the case may be and, as a personal covenant, shall be binding on such Owner or the Association and such Owner's or the Association's respective heirs, personal representatives, successors and assigns and as a personal covenant of an Owner, shall be deemed a personal covenant to, with and for the benefit of Declarant and to, with and for the benefit of the Association but not to, with or for the benefit of any other Owner and, if a personal covenant of the Association shall be deemed a personal covenant to, with and for the benefit of Declarant and to, with and for the benefit of each Owner;

(c) shall be deemed a real covenant by Declarant, for itself, its successors and assigns, and also an equitable servitude, running, in each case, as a burden with and upon the title to each parcel of real property within The Ranch and, as a real covenant and also as an equitable servitude, shall be deemed a covenant and servitude for the benefit of any real property now or hereafter owned by Declarant within The Ranch and for the benefit of any and all other real property within The Ranch; and

(d) shall be deemed a covenant, obligation and restriction secured by a lien, binding, burdening and encumbering the title to each parcel of real property within The Ranch which lien, with respect to any Unit shall be deemed a lien in favor of Declarant and the Association, jointly and severally and, with respect to any real property owned by the Association, shall be deemed a lien in favor of Declarant.

**XIV.4 Interpretation of the Declaration:** The Association, by and through its Board of Directors, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefitted or bound by the covenants and the provisions hereof.

**XIV.5 Attorneys' Fees:** In the event of any dispute under or with respect to this Declaration or any other Association Document, the prevailing party shall be entitled to recover from the non-prevailing party all of its costs and expenses in connection therewith, including but not limited to reasonable attorneys' fees and disbursements.

**XIV.6 Protection of Encumbrancer:**

(a) The Association shall furnish to an Owner or such Owner's designee or mortgagee upon written request, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the Association's registered agent, a statement setting forth the amount of unpaid assessments currently levied against such Owner's Unit. The statement shall be furnished within 30 calendar days after receipt of the request and is binding on the Association, the Board of Directors and every Owner. If no statement is furnished to the Owner, the mortgagee or their designee, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert the priority of its assessment lien upon the Unit for unpaid assessments which were due as of the date of the request, but shall nevertheless retain such lien.

(b) The Association shall report to any Owner's mortgagee any unpaid assessments remaining unpaid for more than 60 days after the same shall have become due. Any mortgagee holding a lien on a Unit may pay any unpaid assessment with respect to such Unit, together with any and all costs and expenses incurred with respect to the assessment lien securing such unpaid assessment, and upon such payment, such mortgagee shall have a lien on the Unit for the amounts paid with the same priority as a lien of the mortgage held by such mortgagee.

**XIV.7 Limited Liability:**

(a) No officer or director of the Association, who was appointed by the Declarant, shall be personally liable to the Association or any member for any injury, damage, loss,

cost or expenses suffered or incurred by reason of any act, omission of such officer or director, unless a court of competent jurisdiction finds that such officer or director breached a fiduciary duty that such officer or director owed to the Association or a Member.

(b) No officer or director of the Association, who was not appointed by the Declarant and no employee, agent or committee member of the Association shall be personally liable to the Association or a member for any injury, damage, loss, cost or expense suffered or incurred by reason of any act or omission of such officer, director, employee, agent or committee member, unless a court of competent jurisdiction finds that the act or omission of such officer, director, employee, agent or committee member was wanton and willful.

(c) The Association shall indemnify and hold harmless each present or former officer, director, employee, agent or committee member against any and all claims, suits, proceedings, injuries, damages, losses, costs and expenses, including, but not limited to, attorneys' fees and disbursements, asserted against or incurred by any such present or former officer, director, employee, agent or committee member to the fullest extent permitted by law; provided, however, that in no event shall the Association indemnify or hold harmless any such officer, director, employee, agent or committee member to the extent that he or she is personally liable for an act or omission under Section 14.7(a) or Section 14.7(b) above.

**XIV.8 Use of Trademark:** Each Owner by acceptance of a deed and/or leasehold assignment for its Unit, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed (i) to acknowledge that The Ranch on Possum Kingdom is the tradename and trademark of the Declarant, and (ii) to covenant that it shall not use the term "The Ranch on Possum Kingdom" without the prior written consent of Declarant.

**XIV.9 Disclaimer of Representations:** Anything to the contrary in this Declaration notwithstanding, and except as otherwise may expressly be set forth on a Plat or other instrument recorded in the Office of the Clerk and Recorder for Palo Pinto County, Texas, Declarant makes no warranties or representations whatsoever that the plan presently envisioned for the complete development of The Ranch can or will be carried out or that any land now owned or hereafter acquired by Declarant is or will be subjected to this Declaration, or that any such land, whether or not it has been subjected to this Declaration, is or will be committed to or developed for a particular use, or that if such land is once used for a particular use, that such use will continue in effect.

**XIV.10 Successors and Assigns:** Except as otherwise provided herein, this Declaration shall be binding upon and shall inure to the benefit of Declarant, the Association, the Authority, and each Owner and their respective heirs, personal representatives, successors and assigns.

**XIV.11 Severability:** Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.

XIV.12 **Captions:** The captions and headings in this instrument are for convenience only and shall not be considered in construing any provisions of this Declaration.

XIV.13 **Construction:** When necessary for proper construction, the masculine of any word used in this Declaration shall include the feminine or neuter gender, and the singular the plural, and vice versa.

XIV.14 **No Waiver:** Failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration.

XIV.15 **Notices; Registration by Owner of Mailing Address:** Each Owner shall register its mailing address with the Association, and except for statements and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent by first class mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. An Owner may change its mailing address from time to time by delivering written notice of such change of address to the secretary of the Association. However, if any Owner fails to so notify the Association of a registered address, then any notice or demand may be delivered to such Owner at the address of such Owner's Unit or posted at such Owner's Unit. All notices or demands intended to be served upon the Board of Directors, the Declarant or the Association shall be sent by certified mail, postage prepaid, to 2000 East Lamar Blvd., Suite 150, Arlington, Texas 76006, until such address is changed by any such party.

## **ARTICLE XV. AUTHORITY'S RIGHTS AND OBLIGATIONS**

XV.1 **Limitation on Duration.** The provisions of Section 14.1 notwithstanding, the covenants, conditions, restrictions, reservations, easements, assessments and liens set forth in this Declaration and all provisions hereof shall cease to apply to Authority Lands at such time as no part thereof remains subject to any of the leases referred to in 2.7.

XV.2 **Limitation on Authority Obligations.** Nothing contained in this Declaration shall be construed to impose any obligation upon Authority with respect to any part of the Property other than Authority Lands.

XV.3 **No Limitation on BRA Agreement.** Nothing contained herein shall be construed to limit the rights of Authority or the obligations of others to Authority provided in BRA Agreement or in any lease therein contemplated.

XV.4 **No Lien on Authority Interest.** Nothing contained herein shall be deemed to impose or authorize imposition of any lien on the interest of Authority in Authority Lands or any part of Authority Lands.

IN WITNESS WHEREOF, Declarant and the parties set forth below have executed this Declaration on the day and year appearing next to their names as set forth below.

**DECLARANT:**

THE RANCH ON POSSUM KINGDOM, L.P., a Texas limited partnership, for itself and as attorney-in-fact for Possum Kingdom Venture, a Texas joint venture, Timberstone Homes, Inc., a Texas corporation, Guion Gregg, an individual, and Steve Lipscomb, an individual

BY: PK RANCH, INC., its General Partner

December \_\_\_\_, 1997

D. Craig Walker, Its President

By:\_\_\_\_

**AUTHORITY:**

BRAZOS RIVER AUTHORITY

December \_\_\_\_, 1997

Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By:\_\_\_\_

FLAGSHIP CAPITAL CORPORATION

December \_\_\_\_, 1997

Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By:\_\_\_\_







FIRST AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
THE RANCH ON POSSUM KINGDOM  
PALO PINTO COUNTY, TEXAS

This First Amendment to Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom, Palo Pinto County, Texas (the "First Amendment") is made this 17<sup>th</sup> day of March, 1998, by The Ranch on Possum Kingdom, L.P., a Texas limited partnership (the "Declarant"), and The Ranch Owners Association, a Texas non-profit corporation (the "Association").

RECITALS

A. On December 8, 1997, that certain Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom, Palo Pinto, County, Texas (the "Declaration"), was filed in the Official Public Records of the County of Palo Pinto, State of Texas, in Volume 944, Page 403.

B. The Declarant and the Association desire to amend the Declaration in certain respects.

C. The Declaration and this Amendment affect and concern the real property set forth on Exhibit A attached hereto.

NOW, THEREFORE, in consideration of the premises, the Declarant and the Association hereby amend the Declaration in the following respects:

1. The second sentence of Section 1.1(a) is deleted and is replaced and superseded by the following sentence:

The Ranch is a subdivision of record in Palo Pinto County, Texas, according to the map or plat of record in Volume 7, Page 90, Plat Records of Palo Pinto County, Texas, as it may be amended or modified from time to time (the "Plat").

2. Section 6.1(e) is deleted and is replaced and superseded by the following:

(e) The Declarant and Authority hereby reserve for themselves and their licensees, invitees, lessees, successors and assigns a perpetual easement on,

over, upon, across, above, under and through Unit A1 and A1 B.R.A. for egress and ingress, and to inspect, construct, maintain, operate, repair, or replace a dam measurement station owned by the Authority which is located on such Unit, or to construct such temporary or permanent structures as agreed to by Declarant and Authority to hide or improve the appearance of such measurement station.

3. Section 6.3 is deleted in its entirety and is replaced and superseded by the following:

**6.3 Common Access Easements:** The areas labeled on the Plat as Common Access Area Lots 1, 2, 3, 4, 5, and 7 are intended to provide common access to the Lake. Common Access Area Lots 5 and 6 (save and except Estates Lane and the area between Units F4 B.R.A. and F5 B.R.A. as shown on Plat sheet 9 of 9) are also intended for the recreational enjoyment of the Owners and their Lessees and Guests. The Owners shall have the right to use Common Access Area Lots 1, 2, 3, 4, 5 and 7 as access to the Lake and Common Access Area Lots 5 and 6 for the recreational purposes set forth herein, provided that use by one Owner does not interfere with the use and enjoyment by any other Owner. The operation, maintenance, repair and replacement of the swimming pool, driveway accesses, boat launches or ramps, clubhouses, restrooms, grill areas, fire pits, sand beaches, playground areas, picnic areas, volleyball courts, foot and bicycle trails, courtesy boat docks, fishing piers, parking areas, fences, lighting, walkways and hand rails on any of the Common Access Area Lots shall be the responsibility of and shall be performed by the Association.

4. Section 6.10(c) is deleted and is replaced and superseded by the following:

(c) **Exercise of Option:** The Declarant, if it elects to exercise the option set forth herein, shall, within five (5) business days after receipt of the Option Notice, give written notice to the Selling Owner (the "Acceptance Notice"), signed by the Declarant evidencing its agreement to purchase the Offered Interest.

5. Section 9.1 is deleted in its entirety and is replaced and superseded by the following:

**9.1 Declarant's Obligation to Construct Common Elements:** Set forth below is a general description of every Common Element which Declarant is legally obligated to construct within The Ranch:

- (a) Courtesy dock with 10 slips;
- (b) Central waste-water collection facility to serve Lots F1 through F10, G1 and G2, which facility shall be constructed on Common Area 1;
- (c) Clubhouse, restrooms, sand beach, playground, and picnic area on Common Access Area Lot 5;
- (d) Skeet range on Common Area 1;
- (e) Fences to limit access of cattle to Units;
- (f) One access/control gate on Harbor Way Road and one access/control gate on The Ranch Road to limit access to the Units;
- (g) Two tennis courts;
- (h) Softball field;
- (i) Telephone service to a point on the perimeter of each of the Units;
- (j) Swimming pool on Common Access Area Lot 5;
- (k) Grill area and fire pits on Common Access Area Lot 5;
- (l) Sealed course surface treated roads and roadways for all roads shown in brown on Plat Sheet 2 of the Plat filed in the Plat Records of Palo Pinto County, Texas, on or about December 8, 1997, in Volume 7, Page 90;
- (m) Main entrance and control gate;
- (n) Electrical service to a point on the perimeter of each of the Units;
- (o) Riding arena with grandstand (built on the Additional Property); and
- (p) Equestrian center with horse stables and management office (built on the Additional Property).

6. Section 9.2 is deleted in its entirety and is replaced and superseded by the following:

**9.2 Common Elements Which May Be Constructed:** Set forth below is a general description of the type of any Common Element which Declarant anticipates may be (i) constructed by Declarant (however, Declarant shall have no obligation to construct any such Common Element), or (ii) constructed, maintained, or operated by the Association:

Swimming pools, clubhouses, restrooms, grill areas, fire pits, sand beaches, playground areas, picnic areas, volleyball courts, foot and bicycle trails, skeet range, chapel, lighted cross, fishing piers, stock ponds and tanks, cattle guards, fences (including game fences), parking areas, streets, roads, paths, walkways, sidewalks, trails, drives, malls, stairs, security systems, lights, signage, access road control gates (including main entrance gate), and related facilities, tennis courts, game or sports courts, baseball/softball fields, game and special events areas, fishing areas and facilities, boat ramps and driveways, water intake and reject lines, outdoor entertainment and other recreational amenities and such equipment as may be appropriate for use in connection therewith, waste collection and/or disposal facilities, satellite dishes, cable television equipment and related facilities, telephone answering service facilities, warehouses, central laundry facilities, a central communications center, central mailbox facility, gardens, sprinkler systems and other landscaping improvements and appurtenances, ponds, water tanks, drainage facilities, monuments, recreational areas, storage facilities for supplies and equipment, earth walls, retaining walls, ducts, shafts and flues, conduits, utility and service lines and systems including but not limited to water, sanitary sewer, gas, storm drainage, telephone, electricity, cable and/or satellite television, and other communications lines and systems, management offices, environmental monitoring equipment or facilities, and such other buildings, facilities, structures and improvements as the Association may from time to time deem necessary or advisable.

7. All capitalized terms, unless otherwise defined herein, shall have the same meaning as set forth in the Declaration.

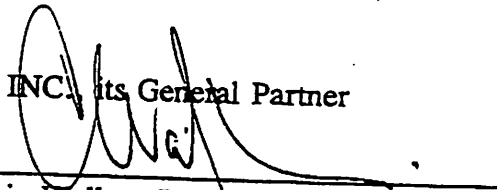
8. Except as amended as set forth in this Amendment, all other terms, conditions, agreements, reservations, liens, easements, and exceptions set forth in the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, Declarant and Association have executed this Amendment on the day and year appearing next to their names as set forth below:

**DECLARANT:**

THE RANCH ON POSSUM KINGDOM, L.P., a Texas limited partnership

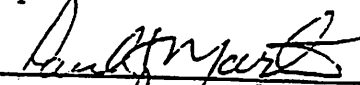
BY: PK RANCH, INC., its General Partner

By:   
D. Craig Walker, Its President

March 17, 1998

**ASSOCIATION:**

THE RANCH OWNERS ASSOCIATION, a Texas non-profit corporation

By:   
Printed Name: PAUL S. MARTIN  
Title: SECRETARY

March 17, 1998

SECOND AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
THE RANCH ON POSSUM KINGDOM  
PALO PINTO COUNTY, TEXAS

This Second Amendment to Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom, Palo Pinto County, Texas (the "Second Amendment") is made this \_\_\_\_ day of April, 1998, by The Ranch on Possum Kingdom, L.P., a Texas limited partnership (the "Declarant"), and The Ranch Owners Association, a Texas non-profit corporation (the "Association").

RECITALS

A. On December 8, 1997, that certain Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom, Palo Pinto, County, Texas (the "Declaration"), was filed in the Official Public Records of the County of Palo Pinto, State of Texas, in Volume 944, Page 403. On or about March 19, 1998, the Declarant and Association filed that certain First Amendment to Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom, Palo Pinto County, Texas, recorded in Volume 956, Page 12 (the "First Amendment").

B. The Declarant and the Association desire to amend the Declaration, as amended by the First Amendment, in certain respects.

C. The Declaration and the First Amendment and Second Amendment affect and concern the real property set forth on Exhibit A attached hereto.

NOW, THEREFORE, in consideration of the premises, the Declarant and the Association hereby amend the Declaration, as amended, in the following respects:

1. The first sentence of Section 2.15 is deleted and is replaced and superseded by the following sentence:

Declarant Control Period means the period commencing on the date on which Declarant forms the Association and ending on the date that Declarant owns less than 10% of the Units at The Ranch.

2. Section 2.32 is amended by adding the following sentence to the end of such section:

In no event shall the number of Units exceed 160, unless approved by at least two-thirds of the votes of Members (other than the Declarant during the Declarant Control Period).

3. Section 3.22 (viii) is deleted and is replaced and superseded by the following:

(viii) acquire, hold, encumber and convey in its own name any right, title or interest in real or personal property; provided, however, that the fee interest of a Common Element may not be leased, conveyed, subjected to or encumbered by a security interest unless (a) such action is approved by at least two-thirds of the votes of the Members (other than the Declarant during the Declarant Control Period); (b) such action is evidenced by a written agreement, or a written ratification of an agreement, executed in the same manner as a deed; and (c) such action does not deprive any Unit of, or adversely affect, its rights of ingress and egress;

4. The third sentence of Section 5.4 is deleted and is replaced and superseded by the following sentence:

Notwithstanding the first sentence of this Section 5.4, (i) assessments for 90% of the estimated expenses pertaining to the central waste collection facility shall be allocated only, and in an equal amount, to the Units in Block F (including Unit F11 B.R.A., G1 and G1 B.R.A.), Unit G-2 and G2 B.R.A., and Unit G-3 and G3 B.R.A., which waste collection facility serves solely said units, and (ii) assessments for expenses pertaining to the portion of Common Access Area Lot 6 consisting of Estates Lane and the area between Units F4 B.R.A. and F5 B.R.A., shall be allocated only, and in an equal amount, to the Units in Block F (except for Unit F11 B.R.A., G1 and G1 B.R.A.).

5. The following new section shall be added to the end of Article V:

**5.11 Limitation on Assessments:** Notwithstanding anything to the contrary contained herein, the Association shall make no assessment whatsoever for any purchase of property or capital improvement to the Ranch (including repair, maintenance, or replacement of Common Elements) in excess of \$50,000 for each of calendar years 1998 and 1999 and \$250,000 for any subsequent calendar year, unless such action is approved by at least two-thirds of the votes of the Members (other than the Declarant during the Declarant Control Period). Notwithstanding anything to the contrary contained herein, the aggregate sum of the annual assessment and the special assessment provided in Section 5.3 for the 1999 calendar year (but excluding any special individual assessment as set forth in Section 5.1(c)), shall not exceed \$3,480 per Unit, unless approved by at least two-thirds of the votes of the Members (other than the Declarant during the Declarant Control Period). The aggregate sum of the annual assessment and the special assessment provided in Section 5.3 (but excluding any special individual assessment provided in Section 5.1(c)) per Unit for each of calendar years 2000, 2001, 2002, 2003, and 2004, shall not exceed 110% of such assessments per Unit for the immediately preceding calendar year, unless approved by at least two-thirds of the votes of the Members (other than the Declarant during the Declarant Control Period). The aggregate sum of the annual assessment and the special assessment provided in Section 5.3 (but excluding any special individual assessment provided in Section 5.1(c)) per Unit for each of calendar years 2005, 2006, 2007, 2008, and 2009, shall not



exceed 105% of such assessments per Unit for the immediately preceding calendar year, unless approved by at least two-thirds of the votes of the Members (other than the Declarant during the Declarant Control Period). For purposes of this Section 5.11, the assessment per Unit for a preceding calendar year shall not refer to any Unit owned by the Declarant for which there was no assessment.

6. The first sentence of Section 6.6 is deleted and is replaced and superseded by the following sentence:

**6.6 Enjoyment of Functions and Common Elements:** Except for Estates Lane and the area between lots F4 B.R.A. and F5 B.R.A., which lane and area are a part of Common Access Area Lot 6 as shown on plat sheet 9 of 9 and are reserved for Owners of Units in Block F, each Owner, Lessee, and Guest shall be entitled to use and enjoy any Common Elements suitable for general use and the services provided by any Functions, subject to the Rules and Regulations and subject to such reasonable and uniformly applied charges which the Association may impose to offset costs and expenses, depreciation and capital expenses, subject to the provisions of this Declaration and subject to the following specific limitations.

7. Section 6.10(e) is deleted and is replaced and superseded by the following:

**(e) Failure to Exercise Option:** If the option is not exercised within the time period set forth in paragraph (c) above, or if the Association defaults on its obligation to purchase the Offered Interest, the Selling Owner may sell or convey the Offered Interest within SIXTY (60) days thereafter to the prospective purchaser named in the Option Notice at a price and on terms no less favorable to the Selling Owner than described in the Option Notice.

8. Section 6.10(f) is deleted and is replaced and superseded by the following:

**(f) Subsequent Transfers:** The Selling Owner shall not otherwise sell or transfer the Offered Interest to any person after the termination of said SIXTY (60) day period without again complying with this Section.

9. The second sentence of Section 7.4 is deleted and is replaced and superseded by the following:

No garage shall have an opening which faces or opens facing the street, unless otherwise approved by the Design Review Board.

10. Section 7.6 is amended by adding the following sentence to the end of such section:

Notwithstanding the foregoing, subject to the approval of the Design Review Board pursuant to Article X, which approval shall not be unreasonably withheld, owners of lots F11

B.R.A., G1, G1 B.R.A., G2 and G3, shall be entitled to erect a fence approximately three feet high to demarcate said lots from The Ranch Road and/or Common Access Area Lot 5.

11. The third sentence of Section 8.10 is deleted and is replaced and superseded by the following sentence:

Dogs shall either be contained indoors or enclosed in a dog run, kennel, or operable and invisible fence or shield, constructed for the purpose of confinement and approved by the Design Review Board.

12. Section 8.13 is deleted and is replaced and superseded by the following:

**8.13 Restriction on Recreational Vehicles:** No motorcycle, moped, golf cart or other motorized recreational vehicle shall be operated within or on the Property, except for (i) licensed motorcycles, mopeds, and golf carts that are driven on the roadways; (ii) "four-wheel" recreational vehicles that are driven on the roadways or Common Areas 1, 2, 3, 4 or 5; and (iii) vehicular uses that are otherwise specifically permitted by the Rules and Regulations.

13. Section 9.1 (as amended by the First Amendment) is amended by adding the following paragraphs:

- (q) Rock and/or cedar rail fence approximately three feet high which shall be placed on Common Access Area Lot 5 (as shown on Plat Sheet 9 of 9) so as to demarcate such lot from (i) lots F10 B.R.A. and F1 B.R.A. and (ii) lot E16 B.R.A.; and
- (r) One access control gate on Common Access Area Lot 5 to limit access to the portion of Common Access Area Lot 6 which consists of Estates Lane.

14. Section 9.1(l) (as added by the First Amendment) is deleted and is replaced by the following:

- (l) Sealed course surface treated roads and roadways for all roads and roadways on the west side of F.M. Highway No. 2353, which are shown in brown on Sheet 2 of the Plat filed in the Plat Records of Palo Pinto County, Texas, on or about December 8, 1997, in Volume 7, Page 90.

15. Section 14.2 is amended by adding the following sentence to the end of such section:

Notwithstanding the foregoing, Section 3.22 (viii), Section 5.11, and the last sentence of Section 2.32 may not be amended unless approved by at least two-thirds of the

votes of Members (excluding the Declarant during the Declarant Control Period).

16. All capitalized terms, unless otherwise defined herein, shall have the same meaning as set forth in the Declaration.

17. Except as amended as set forth in this Amendment, all other terms, conditions, agreements, reservations, liens, easements, and exceptions set forth in the Declaration as amended by the First Amendment shall remain in full force and effect.

IN WITNESS WHEREOF, Declarant and Association have executed this Second Amendment on the day and year appearing next to their names as set forth below:

**DECLARANT:**

THE RANCH ON POSSUM KINGDOM, L.P., a Texas limited partnership

By: PK RANCH, INC., its General Partner

April \_\_\_\_\_, 1998

By: \_\_\_\_\_  
D. Craig Walker, its President

**ASSOCIATION:**

THE RANCH OWNERS ASSOCIATION, a Texas non-profit corporation

April \_\_\_\_\_, 1998

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF TEXAS           §  
  §  
COUNTY OF TARRANT   §

This instrument was acknowledged before me on the \_\_\_\_\_ day of April, 1998, by D. CRAIG WALKER, as President of PK RANCH, INC., a Texas corporation, on behalf of said corporation, in its capacity as general partner of The Ranch on Possum Kingdom, L.P., a Texas limited partnership.

( S E A L )

\_\_\_\_\_

Notary Public, State of Texas

STATE OF TEXAS           §  
  §  
COUNTY OF TARRANT   §

This instrument was acknowledged before me on the \_\_\_\_\_ day of April, 1998, by \_\_\_\_\_, as \_\_\_\_\_ of THE RANCH OWNERS ASSOCIATION, a Texas non-profit corporation, on behalf of said corporation.

( S E A L )

\_\_\_\_\_

Notary Public, State of Texas

**THIRD AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
THE RANCH ON POSSUM KINGDOM  
PALO PINTO COUNTY, TEXAS**

This Third Amendment to Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom, Palo Pinto County, Texas (the "Third Amendment") is made this 5<sup>th</sup> day of May, 1998, by The Ranch on Possum Kingdom, L.P., a Texas limited partnership (the "Declarant"), and The Ranch Owners Association, a Texas non-profit corporation (the "Association").

**RECITALS**

A. On December 8, 1997, that certain Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom, Palo Pinto, County, Texas (the "Declaration"), was filed in the Official Public Records of the County of Palo Pinto, State of Texas, in Volume 944, Page 403. On or about March 19, 1998, the Declarant and Association filed that certain First Amendment to Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom, Palo Pinto County, Texas, recorded in Volume 956, Page 12 (the "First Amendment"). On or about April \_\_\_\_, 1998, the Declarant and Association filed that certain Second Amendment to Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom, Palo Pinto County, Texas, recorded in Volume \_\_\_\_, Page \_\_ (the "Second Amendment").

B. The Declarant and the Association desire to amend the Declaration, as amended by the First Amendment and Second Amendment, in certain respects.

C. The Declaration and the Amendments affect and concern the real property set forth on Exhibit A attached hereto.

NOW, THEREFORE, in consideration of the premises, the Declarant and the Association hereby amend the Declaration, as amended, in the following respects:

1. Section 6.10(e) is deleted and is replaced and superseded by the following:

(e) **Failure to Exercise Option:** If the option is not exercised within the time period set forth in paragraph (c) above, or if the Declarant defaults on its obligation to purchase the Offered Interest, the Selling Owner may sell or convey the Offered Interest within SIXTY (60) days thereafter to the prospective purchaser named in the Option Notice at a price and on terms no less favorable to the Selling Owner than described in the Option Notice.

2. All capitalized terms, unless otherwise defined herein, shall have the same meaning as set forth in the Declaration.

3. Except as amended as set forth in this Amendment, all other terms, conditions, agreements, reservations, liens, easements, and exceptions set forth in the Declaration, as amended by the First Amendment and Second Amendment, shall remain in full force and effect.

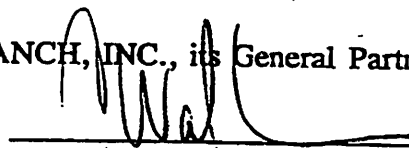
IN WITNESS WHEREOF, Declarant and Association have executed this Third Amendment on the day and year appearing next to their names as set forth below:

**DECLARANT:**

THE RANCH ON POSSUM KINGDOM, L.P., a Texas limited partnership

By: PK RANCH, INC., its General Partner

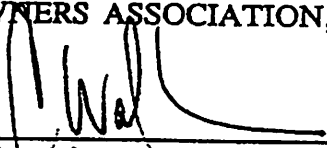
May 5, 1998

By:   
D. Craig Walker, its President

**ASSOCIATION:**

THE RANCH OWNERS ASSOCIATION, a Texas non-profit corporation

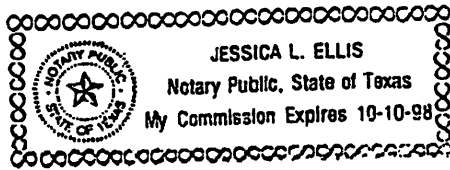
May 5, 1998

By:   
Printed Name: D. CRAIG WALKER  
Title: PRESIDENT

STATE OF TEXAS §  
§  
COUNTY OF TARRANT §

This instrument was acknowledged before me on the 5<sup>th</sup> day of May, 1998, by D. CRAIG WALKER, as President of PK RANCH, INC., a Texas corporation, on behalf of said corporation, in its capacity as general partner of The Ranch on Possum Kingdom, L.P., a Texas limited partnership.

(SEAL)

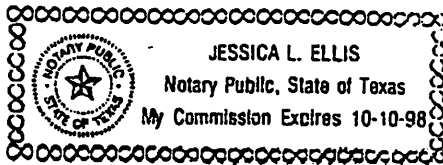


Jessica L. Ellis  
Notary Public, State of Texas

STATE OF TEXAS §  
§  
COUNTY OF TARRANT §

This instrument was acknowledged before me on the 5<sup>th</sup> day of May, 1998, by D. CRAIG WALKER, as PRESIDENT of THE RANCH OWNERS ASSOCIATION, a Texas non-profit corporation, on behalf of said corporation.

(SEAL)



Jessica L. Ellis  
Notary Public, State of Texas

FOURTH AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
THE RANCH ON POSSUM KINGDOM  
PALO PINTO COUNTY, TEXAS

This Fourth Amendment to Declaration of Covenants, Conditions and Restrictions for The Ranch, on Possum Kingdom, Palo Pinto County, Texas (the "Third Amendment") is made this 22<sup>nd</sup> day of July, 1999, by The Ranch on Possum Kingdom, L.P., a Texas limited partnership (the "Declarant"), and The Ranch Owners Association, a Texas non-profit corporation (the "Association").

RECITALS

A. On December 8, 1997, that certain Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom, Palo Pinto, County, Texas (the "Declaration"), was filed in the Official Public Records of the County of Palo Pinto, State of Texas, in Volume 944, Page 403. On or about March 19, 1998, the Declarant and Association filed that certain First Amendment to Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom, Palo Pinto County, Texas, recorded in Volume 956, Page 12 (the "First Amendment"). On or about April 27, 1998, the Declarant and Association filed that certain Second Amendment to Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom, Palo Pinto County, Texas, recorded in Volume 962, Page 83 (the "Second Amendment"). On or about May 5, 1998, the Declarant and Association filed that certain Third Amendment to Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom, Palo Pinto County, Texas, recorded in Volume 962, Page 900 (the "Third Amendment").

B. The Declarant and the Association desire to amend the Declaration, as amended by the First Amendment, Second Amendment, and Third Amendment, in certain respects.

C. The Declaration and the Amendments affect and concern the real property set forth on Exhibit A attached hereto.

NOW, THEREFORE, in consideration of the premises, the Declarant and the Association hereby amend the Declaration, as amended, in the following respects:

1. The third sentence of Section 2.32 is deleted and is replaced and superseded by the following sentence:

At present, there are 143 Units which are listed on Exhibit B attached hereto.

2. Section 6.1(f) is deleted and is replaced and superseded by the following:



(f) Declarant hereby reserves to itself and its licensees, invitees, lessees, successors and assigns, including any future Owners of Units K1 and L1 through L17, a right of ingress and egress over Common Area 5 to Unit K1 and a right of ingress and egress over Common Area 2 to Units L1 through L17, including ingress and egress for the construction of improvements upon any of such Units.

3. Section 6.8(c) is deleted and is replaced and superseded by the following:

(c) the right to add additional property to The Ranch pursuant to Section 2.30 above and to amend this Declaration in connection therewith, the right to amend this Declaration to create additional Units and Common Elements, the right to subdivide Units as provided in Section 8.24, and the right to convert any and all Units owned by Declarant into Common Elements;

4. Section 8.24 is deleted and is replaced and superseded by the following:

**8.24 Combination and Subdivision of Units:**

- (a) No subdivision of any Unit by any Owner (except the Declarant) is permitted, except that a Unit which has been combined with another Unit pursuant to this Section 8.24 may be subdivided back into the original Units prior to such combination if the conditions in (c) below are met. The Declarant may subdivide any Unit owned by Declarant into as many Units as Declarant desires, subject to the limitation on the number of Units in Section 2.32.
- (b) The Declarant may combine any Unit owned by Declarant with any other Unit or Units owned by Declarant. A Unit owned by any Owner (other than the Declarant) may be combined with another Unit if the conditions in (c) below are met.
- (c) Subject to the limitations of (a) and (b) above, an applicant Owner who desires a combination or subdivision of Units shall submit to the Declarant and the Association (and the Authority, if applicable) for their separate review and approval, copies of the proposed combination or subdivision documents (including survey and proposed plat), and such other information as may be reasonably requested by the Declarant, the Association, and/or the Authority (if applicable). Upon request, the applicant Owner shall also submit a deposit against attorneys' fees and costs which the Declarant and the Association will incur in reviewing and effectuating the application for approval, in an amount reasonably estimated by the Declarant and the Association. The Declarant and

the Association separately shall either (i) approve and execute any plats, maps and owners' association declarations that are required for each such combination or subdivision, or (ii) disapprove the documents. If such documents are disapproved by either Declarant or the Association, the disapproving party shall set forth the specific reasons for such disapproval, and the applicant Owner shall thereafter either modify its application to satisfy such concerns (while maintaining the approval of the other approving party) or terminate its combination or subdivision proposal. All costs and attorneys' fees incurred by the Association and the Declarant as a result of any application for approval shall be the sole obligation of the applicant Owner. No subdivision or combination of Units shall be effected without any amendment, vacation, and/or replat of the Plat as necessary to comply with state and local platting requirements.

- (d) If one or more Units is combined with any other Unit pursuant to any plat filed hereafter, each Unit before such combination shall nonetheless be treated as a separate Unit for purposes of Article V of this Declaration. Example: Owner X combines and replats Unit I1 with Unit I2 into a single tract. Prior to such combination, Owner X paid \$1,700 per year as an annual assessment for Unit I1 and \$1,700 per year as an annual assessment for Unit I2. After the combination of Units I1 and I2, the owner must continue to pay a \$1,700 annual assessment for Unit I1 and a \$1,700 annual assessment for Unit I2 even though such Units have been combined into one tract.

5. All capitalized terms, unless otherwise defined herein, shall have the same meaning as set forth in the Declaration.

6. Except as amended as set forth in this Amendment, all other terms, conditions, agreements, reservations, liens, easements, and exceptions set forth in the Declaration, as amended by the First Amendment, Second Amendment and Third Amendment, shall remain in full force and effect.



IN WITNESS WHEREOF, Declarant and Association have executed this Fourth Amendment on the day and year appearing next to their names as set forth below:

**DECLARANT:**

THE RANCH ON POSSUM KINGDOM, L.P., a Texas limited partnership

By: PK RANCH, INC., its General Partner

July 22, 1999

By: Jessica L. Ellis  
Jessica L. Ellis, its Vice President

**ASSOCIATION:**

THE RANCH OWNERS ASSOCIATION, a Texas non-profit corporation

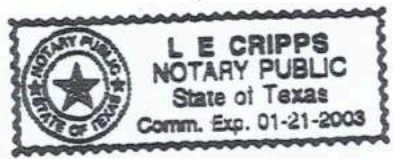
July 22, 1999

By: Jessica L. Ellis  
Jessica L. Ellis  
Vice President

STATE OF TEXAS §  
                                  §  
COUNTY OF TARRANT §

This instrument was acknowledged before me on the 22nd day of July, 1999, by JESSICA L. ELLIS, as Vice President of PK RANCH, INC., a Texas corporation, on behalf of said corporation, in its capacity as general partner of The Ranch on Possum Kingdom, L.P., a Texas limited partnership.

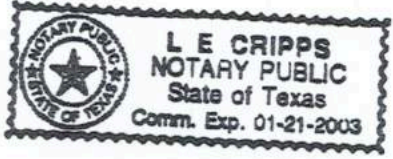
*L. E. Cripps*  
\_\_\_\_\_  
Notary Public, State of Texas



STATE OF TEXAS §  
                                  §  
COUNTY OF TARRANT §

This instrument was acknowledged before me on the 22nd day of July, 1999, by Jessica L. Ellis, as Vice President of THE RANCH OWNERS ASSOCIATION, a Texas non-profit corporation, on behalf of said corporation.

*L. E. Cripps*  
\_\_\_\_\_  
Notary Public, State of Texas



207972/W313.A301

FIFTH AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ~~MAP~~  
THE RANCH ON POSSUM KINGDOM  
PALO PINTO COUNTY, TEXAS

This Fifth Amendment to Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom, Palo Pinto County, Texas (the "Fifth Amendment") is made this 10 day of March, 2000, by The Ranch on Possum Kingdom, L.P., a Texas limited partnership (the "Declarant"), and The Ranch Owners Association, a Texas non-profit corporation (the "Association").

RECITALS

A. On December 8, 1997, that certain Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom, Palo Pinto, County, Texas (the "Declaration"), was filed in the Official Public Records of the County of Palo Pinto, State of Texas, in Volume 944, Page 403. On or about March 19, 1998, the Declarant and Association filed that certain First Amendment to Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom, Palo Pinto County, Texas, recorded in Volume 956, Page 12 (the "First Amendment"). On or about April 29, 1998, the Declarant and Association filed that certain Second Amendment to Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom, Palo Pinto County, Texas, recorded in Volume 962, Page 83 (the "Second Amendment"). On or about May 6, 1998, the Declarant and Association filed that certain Third Amendment to Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom, Palo Pinto County, Texas, recorded in Volume 962, Page 900 (the "Third Amendment"). On or about July 26, 1999, the Declarant and Association filed that certain Fourth Amendment to Declaration of Covenants, Conditions and Restrictions for The Ranch on Possum Kingdom, Palo Pinto County, Texas, recorded in Volume 1012, Page 819 (the "Fourth Amendment").

B. The Declarant and the Association desire to amend the Declaration, as amended by the First Amendment, Second Amendment, Third Amendment, and Fourth Amendment, in certain respects.

C. The Declaration and the Amendments affect and concern the real property set forth on Exhibits "A" and "B" attached hereto.

NOW, THEREFORE, in consideration of the premises, the Declarant and the Association hereby amend the Declaration, as amended, in the following respects:

1. In accordance with Section 2.30 of the Declaration, Declarant does hereby declare that the real property described on Exhibit "B" attached hereto shall become part of and shall be deemed to be within the Ranch. Such property is hereby declared subject to all of the terms of the Declaration, as amended to date.

2. The third sentence of Section 2.32 is deleted and is replaced and superseded by the following sentence:

There are 160 Units in The Ranch which Units are listed on Exhibit "C" attached hereto.

3. The Units in Block M only shall be subject to the following additional restrictions:

(a) Metal roofs must be painted with a dull green or gray paint or coating so that any such roof is not shiny and does not create a glare visible to other Units in the development.

(b) No observation towers may be erected.

(c) Any driveway serving any Unit must be served by Keechi Trail; no driveways are permitted to connect to or be served by Scenic Drive.

4. Section 9.1 (as amended by the First Amendment, Second Amendment, Third Amendment, and Fourth Amendment) is amended by adding the following paragraphs:

(s) One access-control gate on Common Area CA-2 to limit access to Units in Block L; and

(t) One access-control gate on Keechi Trail to limit access to Units in Block M.

5. The following new section shall be added to the end of Article III:

3.24 Water Features. The Association shall continuously maintain and operate all water features, waterways, and waterfalls constructed by the Declarant on The Ranch, subject only to the availability of water to The Ranch.

6. All capitalized terms, unless otherwise defined herein, shall have the same meaning as set forth in the Declaration.

7. Except as amended as set forth in this Amendment, all other terms, conditions, agreements, reservations, liens, easements, and exceptions set forth in the Declaration, as amended by the First Amendment, Second Amendment, Third Amendment and Fourth Amendment, shall remain in full force and effect.

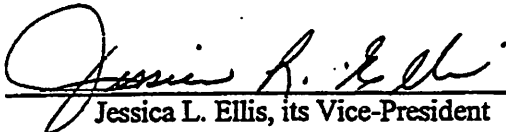
IN WITNESS WHEREOF, Declarant and Association have executed this Fifth Amendment on the day and year appearing next to their names as set forth below:

**DECLARANT:**

THE RANCH ON POSSUM KINGDOM, L.P., a Texas limited partnership

By: PK RANCH, INC., its General Partner

March 10, 2000

By:   
Jessica L. Ellis, its Vice-President

**ASSOCIATION:**

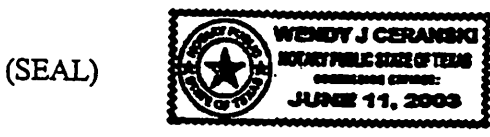
THE RANCH OWNERS ASSOCIATION, a Texas non-profit corporation

March 10, 2000

By:   
Jessica L. Ellis, its Vice-President

STATE OF TEXAS §  
  §  
  §  
COUNTY OF TARRANT §

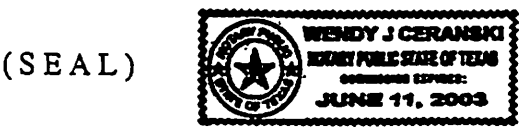
This instrument was acknowledged before me on the 10<sup>th</sup> day of March, 2000, by JESSICA L. ELLIS, as Vice-President of PK RANCH, INC., a Texas corporation, on behalf of said corporation, in its capacity as general partner of The Ranch on Possum Kingdom, L.P., a Texas limited partnership.



*Wendy J. Ceranski*  
Notary Public, State of Texas

STATE OF TEXAS §  
  §  
  §  
COUNTY OF TARRANT §

This instrument was acknowledged before me on the 10<sup>th</sup> day of March, 2000, by JESSICA L. ELLIS, as Vice-President of THE RANCH OWNERS ASSOCIATION, a Texas non-profit corporation, on behalf of said corporation.



*Wendy J. Ceranski*  
Notary Public, State of Texas

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AFTER RECORDING RETURN TO:

Jessica L. Ellis  
The Ranch on Possum Kingdom, L.P.  
2000 E. Lamar Blvd., Suite 150  
Arlington, Texas 76006



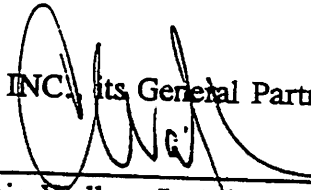
IN WITNESS WHEREOF, Declarant and Association have executed this Amendment on the day and year appearing next to their names as set forth below:

**DECLARANT:**

THE RANCH ON POSSUM KINGDOM, L.P., a Texas limited partnership

BY: PK RANCH, INC., its General Partner

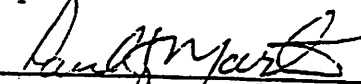
March 17, 1998

By:   
D. Craig Walker, Its President

**ASSOCIATION:**

THE RANCH OWNERS ASSOCIATION, a Texas non-profit corporation

March 17, 1998

By:   
Printed Name: PAUL S. MARTIN  
Title: SECRETARY