

**AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
BROOK MEADOWS ADDITION  
COLLEYVILLE, TEXAS**

After Recording Return To:

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WHEREAS, Declarant filed of record that certain Second Amendment to the Declaration of Covenants, Conditions, and Restrictions for lots 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29, Block A Brook Meadows Addition Colleyville, Texas in Volume 9747, Pages 176 et seq. in the Real Property Records of Tarrant County, Texas (“Declaration I Second Amendment”), which amendment amended Declaration I as to the Lake Lots, as hereinafter defined; and

WHEREAS, Lots 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29, Block A, more particularly described on the corrected final plat thereof, recorded in Volume 388-191, Page 62 of the Plat Records of Tarrant County, Texas, are collectively referred to as the “Lake Lots”; and

WHEREAS, the Lake Lots are encumbered by the Declaration I Second Amendment and in addition to the Association are within the jurisdiction of the Council of Co-Owners, as provided in the Declaration I Second Amendment; and

WHEREAS, this Declaration does not amend and/or restate the Declaration I Second Amendment;

WHEREAS, Declarant filed of record that certain Amendment to the Declaration of Covenants, Conditions, and Restrictions for Brook Meadows Addition, Colleyville, Texas under Clerk’s File Number 20030402 (the “2003 Declaration I Amendment”), which amendment amended Declaration I; and

WHEREAS, the Addition is held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of establishing a general scheme for the development of all of the lots within the Addition, and for the purpose of enhancing and protecting the value, attractiveness, and desirability of said lots and which shall run with the land and be binding on all parties having or acquiring any right, title, or interest in the property of any part thereof, and which shall inure to the benefit of each Owner thereof; and

WHEREAS, this Declaration shall amend and restate Declaration I, Declaration II, Declaration I Amendment, Declaration II Amendment, , and the 2003 Declaration I Amendment; and

WHEREAS, Section 3.6 of Declaration I and Section 3.6 of Declaration II provides, in part, that the covenants, conditions, and restrictions set forth in Declaration I and Declaration II shall be binding on all parties and all persons and parties claiming under them, unless an instrument signed by a simple majority (50% + 1 vote) of Owners of the lots has been recorded, pursuant to which the foregoing percentage of Owners agree to change “said restrictions, reservations, and covenants in whole or in part;” and

WHEREAS, Declaration I, Declaration II, Declaration I Amendment, Declaration II Amendment, and the 2003 Declaration I Amendment are hereinafter collectively, referred to as the “Original Declaration.”

## WITNESSETH

NOW, THEREFORE, The Association, pursuant to Declaration I and Declaration, II as both may have been amended from time to time, as provided in the recitals set forth above, together with a simple majority of the Owners of lots within the Addition, hereby amends and restates the Original Declaration as follows:

Until the Declaration has expired or is terminated pursuant to the terms and conditions set forth herein, the Addition shall be held, transferred, sold, conveyed, used, and occupied subject to the covenants, conditions, restrictions, easements, and charges set forth in this Declaration, which covenants, conditions, and restrictions shall be deemed covenants running with the Addition and shall be binding upon and inure to the benefit of the Association, and all Owners of land within the Addition, their respective legal representatives, heirs, executors, administrators, successors and assigns. The Association, a non-profit corporation incorporated under the laws of the State of Texas, shall have the powers created by this Declaration, including, (i) maintaining, administering and governing the Commonly Maintained Areas, as defined in Article 7.11 of this Declaration (ii) administering and enforcing the covenants and assessments, charges and easements in common herein created and (iii) collecting and disbursing the assessments and charges hereinafter created.

## GRANDFATHER CLAUSE

Notwithstanding anything contained herein to the contrary, the architectural or use restrictions contained in this Declaration shall not result in non-conforming use on the part of any current Owner of a lot (i.e. Owner as of the date of recording of this Declaration), so long as such non-conforming use, structure, and/or landscaping existed at the time of recording of this Declaration. Nothing contained in the preceding sentence shall be (i) construed as the Association's ratification or acceptance of the violation, (ii) relied upon by any Member or Owner, or any other person or entity, as the Association's approval of any violation of the provisions of the Declaration, which violation does not exist at the time of recording of the Declaration or (iii) relied upon by any Member or Owner, or any other person or entity, as a precedent.

## ARTICLE I

### THE ASSOCIATION

For the efficient preservation of the amenities in the Addition and enforcement of this Declaration, there has been incorporated the Brook Meadows Homeowners Association, Inc., a non-profit corporation created under the laws of the State of Texas, which, upon the recording of this Declaration, shall be delegated and assigned the power of administering and enforcing these assessments, conditions, covenants, easements, reservations and restrictions, including levying, collecting and disbursing the assessments. The Directors of the Association have established certain By-Laws by which the Association shall be governed through its Board of Directors, for the purpose of exercising the functions aforesaid and any other duties as set out in the By-Laws and/or other Dedicatory Instruments as that term is defined in the Texas Property Code. No more than one such non-profit corporation shall be in existence at any one time.

## ARTICLE II

### CONSTRUCTION OF IMPROVEMENTS AND USE OF LOTS

Section 2.1 Residential Use. All lots shall be used for single-family residential purposes only. No building shall be erected, altered, placed or permitted to remain on any lot other than one (1) detached single-family residence per lot, which residence may not exceed two (2) stories in height, and a private garage as provided below.

Section 2.2 Single-Family Use. Each residence may be occupied by only one family consisting of persons related by blood, adoption or marriage or no more than two unrelated persons living together as a single housekeeping unit, together with any household servants.

Section 2.3 Garages. Each residence shall have a detached or attached garage suitable for parking not less than two (2) or more than three (3) standard size automobiles, which garage conforms in design and material with the main structure. All garages shall be rear entry. The term "rear entry" as used in the preceding sentence of this Section 2.3 shall be interpreted to mean that the garage door of any house or residence within the Addition must (1) open to the rear of the house (facing the opposite direction from the property line in front of the affected house), (2) except for corner lots, which must open to the side, (approximately perpendicular to the property line in front of the affected house, or (3) must open as otherwise approved by the Architectural Review Committee (the "Committee") wherein the street view into the garage of the house is substantially restricted.

Section 2.4 Restrictions on Resubdivisions. None of the lots shall be subdivided into smaller lots.

Section 2.5 Driveways. All driveways shall be surfaced with concrete, asphalt or a similar substance approved by the Committee. Unless otherwise approved in writing by the Committee, (i) side approach driveways shall not be allowed on any lot including, without limitation, any corner lot and (ii) driveway approaches to garages on corner lots shall be standard driveway approaches along the lot line which is contiguous to a lot line for another lot and not along the lot line which abuts an adjacent street.

#### Section 2.6 Uses Specifically Prohibited.

(a) No temporary dwelling, shop, trailer or mobile home of any kind or any improvement of a temporary character (except children's playhouses, dog houses, greenhouses, gazebos and buildings for storage of lawn maintenance equipment, may be placed on a lot only in places which are not visible from any street on which the lot fronts) shall be permitted on any lot except that the builder or contractor, with the prior written approval of the Committee, may have temporary improvements (such as a sales office and/or construction trailer) on a given lot during construction of the residence on that lot. No building material of any kind or character shall be placed or stored upon a lot until the Owner thereof is ready to commence construction of improvements, and then such material shall be placed within the lot lines of the lot upon which the improvements are to be erected.

(b) No boat, marine craft, hovercraft, aircraft, recreational vehicle, pick-up camper, travel trailer, motor home, camper body or similar vehicle or equipment may be parked in the

driveway or front yard of any dwelling or parked on any public street in the Addition, nor shall any such vehicle or equipment be parked for storage in the side or rear yard of any lot unless completely concealed from public view. No such vehicle or equipment shall be used as a residence or office temporarily or permanently. This restriction shall not apply to any vehicle, machinery or equipment temporarily parked and in use for the construction, maintenance or repair of a residence in the immediate vicinity.

(c) Trucks with tonnage in excess of three quarters of a ton and any vehicle with painted advertisement shall not be permitted to park overnight within the Addition except those used by a builder during the construction of improvements.

(d) No vehicle of any size which transports inflammatory or explosive cargo may be kept in the Addition at any time.

(e) No structure of a temporary character, such as a trailer, basement, tent, shack, barn, or other out-building shall be used on any lot at any time as a residence or dwelling house; provided, however, any builder, which the prior written approval of the Committee, may maintain and occupy model houses, sales offices and construction trailers during the construction period.

(f) No oil drilling, oil development operation, oil refining, quarrying or mining operations of any kind shall be permitted in the Addition, nor shall oil wells, tanks, gunnels, mineral excavations or shafts be permitted upon or in any part of the Addition. No derrick or other structure designed for using in quarrying or boring for oil, natural gas or other minerals shall be erected, maintained or permitted within the Addition.

(g) No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot in the Addition except that dogs, cats or other household pets may be kept for the purpose of providing companionship for the private family. Animals are not to be raised, bred or kept for commercial purposes or for food. It is the purpose of these provisions to restrict the use of the property so that no person shall quarter on the premises cows, horses, bees, hogs, sheep, goats, guinea fowls, ducks, chickens, turkeys, skunks or any other animals that may interfere with the quietude, health or safety of the community. No more than four (4) pets will be permitted on each lot. Pets must be restrained or confined on the homeowner's back lot inside a fenced area or within the house. It is the pet Owner's responsibility to keep the lot clean and free of pet debris. All animals must be properly tagged for identification. Notwithstanding any provision hereof to the contrary, the Owners of lots 10, 22, 23, 24, 25, 26, 27, 28, 29, 30, and 31, Block A, within Property I may keep a maximum of two (2) horses on each of such lots, provided that such horses at all times are kept at least two hundred (200) feet from any residence constructed on such lots.

(h) No lot or other area in the Addition shall be used as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers in appropriate locations which may be specified by the Committee and, unless otherwise expressly permitted by the Committee, such containers shall be situated and enclosed or screened so as not to be visible from any residential street, private drive or adjacent lot. Materials incident to construction of improvements may be stored on lots during construction so long as construction progresses without undue delay.

(i) No individual water supply system shall be permitted in the Addition.

(j) No individual sewage disposal system shall be permitted in the Addition.

(k) No garage, garage house or other out-building (except for sales offices and construction trailers during the construction period which have been approved by the Committee in writing) shall be occupied by any Owner, tenant or other person prior to the erection of a residence.

(l) No air-conditioning apparatus shall be installed on the ground in front of a residence. No air-conditioning apparatus shall be attached to any front wall or window of a residence. No evaporative cooler shall be installed on the front wall or window of a residence. All utility meters, equipment, air conditioning compressors, air conditioning and heating units and similar items must (to the extent reasonably practicable) be visually screened from the street and adjoining lots and must be located in areas acceptable to the Committee.

(m) No exterior antennas, aerials, satellite dishes, or other apparatus for the reception of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Addition, which is visible from any street, Commonly Maintained Area or other lot unless it is impossible to receive signals from said location. In that event the receiving device may be placed in a visible location as approved by the Committee, as defined herein. The Committee may require as much screening as possible while not substantially interfering with reception. The Association shall have the right, without obligation, to erect or install an aerial, satellite dish, master antenna, cable system, or other apparatus for the transmission of television, radio, satellite or other signals for the benefit of all or a portion of the Addition. No satellite dishes shall be permitted which are larger than one (1) meter in diameter. No broadcast antenna mast may exceed the height of the center ridge of the roofline. No exterior antennas, aerials, satellite dishes, or other apparatus shall be permitted which transmit television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Addition. The provisions of this Section are not an attempt to violate the Telecommunications Act of 1996 ("the 1996 Act"), as may be amended from time to time. This Section shall be interpreted to be as restrictive as possible while not violating the 1996 Act.

In the event that it is impossible to receive a signal from a non-visible location, the installation of antennas shall be subject to rules and regulations which may be promulgated by the Association setting out preferred alternate locations for antennas.

(n) No lot or improvement shall be used for business, professional, commercial or manufacturing purposes of any kind. No activity, whether for profit or not, shall be conducted which is not related to single-family residential purposes. No noxious or offensive activity shall be undertaken within the Addition, nor shall anything be done which is or may become an annoyance or nuisance to the neighborhood. Nothing in this subparagraph shall prohibit a builder's temporary use of a residence as a sales office until such builder's last residence in the Addition is sold if such builder has received the prior written approval of such use from the Committee. Nothing in this subparagraph shall prohibit an Owner's use of a residence for quiet, inoffensive activities such as tutoring or giving art lessons so long as such activities do not materially increase the number of cars parked on the street or interfere with adjoining homeowners' use and enjoyment of their residences and yards.

(o) Except for children's playhouses, dog houses, greenhouses, gazebos and buildings for storage of lawn maintenance equipment, no building previously constructed elsewhere shall be moved onto any lot, it being the intention that only new construction be placed and erected thereon.

(p) Within easements on each lot, no structures, planting or materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, which may change the direction of flow within drainage channels or which may obstruct or retard the flow of water through drainage channels.

(q) No sign of any kind shall be displayed to the public view on any lot except one (1) professional sign of not more than five (5) square feet advertising the property for sale, or professional signs not exceeding nine (9) sq. feet used by a builder to advertise the property during the construction and sales period. The Association or its agents shall have the right to remove any sign, billboard or other advertising structure that does not comply with the foregoing requirements, and in so doing shall not be subject to any liability for trespass or any other liability in connection with such removal. All signs are subject to the approval of the Committee and may be required by the Committee to be removed if, in the judgment of the Committee, same are found to be inconsistent with the high standards and aesthetics of the Addition.

(r) The drying of clothes in full public view is prohibited. The Owners and occupants of any lots at the intersections of streets or adjacent to parks, playgrounds or other facilities where the rear yard is visible to full public view shall construct a drying yard or other suitable enclosure to screen from public view the equipment which is incident to normal residences, such as clothes drying equipment, yard equipment and storage piles.

(s) Except within fireplaces in the main residential dwelling and except for outdoor cooking, no burning of anything shall be permitted anywhere within the Addition.

(t) No abandoned, derelict or inoperative vehicles may be stored or located on any lot unless visually screened from other lots and from any residential street.

Section 2.7 Minimum Floor Area. The total air-conditioned living area of the main residential structure, as measured to the outside of exterior walls but exclusive of open porches, garages, patios and detached accessory buildings, shall be not less than three thousand (3,000) square feet or the minimum habitable floor area as specified by the City, whichever is the greater.

Section 2.8 Building Materials; Exterior Items and Surfaces. The total exterior wall area, except windows and doors, of each building constructed or placed on a lot shall be not less than eighty percent (80%) (or such higher percentage as may be required by the City) brick, brick veneer, stone, stone veneer or other material approved by the Committee; provided, however, the front external wall area, except windows and doors, of such buildings shall not be less than one hundred percent (100%) of such materials unless otherwise approved by the Committee in writing. In calculating the area required to be constructed of the foregoing materials on the side and rear exterior walls, but not the front exterior walls, of such buildings, the areas covered by the following shall be excluded from such calculation; gables or other areas above the height of the top of standard height first-floor windows. No plywood or masonite shall be used on any exterior wall unless approved, in writing, by the Committee prior to installation. Roofing shall be in earth tones and be composed of man-made slate, cedar shingles, wooden shakes, tile, or asphalt composition shingles having a manufacturer's warranty of at least 40 years and a minimum weight of 300 lbs. per square. Roofing may also be coated steel similar in construction and appearance to Gerard Steel, or other material acceptable to the City and the Committee. Notwithstanding anything contained herein to the contrary, no other materials shall be permitted unless approved by the



Committee. Installation of all types of exterior items and surfaces such as address numbers or external ornamentation, lights, mail chutes, mail boxes, exterior paint or stain, shall be subject to the prior approval of the Committee both as to design, materials and location.

Section 2.9 Side Line and Front Line Setback. Any Owners of any lot in this Addition, may, through these Restrictive Covenants and the rights granted herein, enforce any of the City of Colleyville's building set back requirements as provided under the Planning and Zoning Code of the City of Colleyville or the Building Code or any amendments thereto through any remedies provided herein or by law or in equity.

Section 2.10 Fences and Walls. Any fence or wall must be constructed of masonry, brick, stone, wood or other material approved by the Committee. Retaining walls must be constructed entirely out of materials approved by the Committee. No fence or wall shall be permitted to extend nearer to any street than the front building line of any residence. Fences or walls erected by Declarant shall become the property of the Owner of the lot on which the same are erected and, as such, shall be maintained and repaired by such Owner. Replacement fences shall be of a similar material and design as originally constructed or approved by the Committee if not similar in material and design as originally constructed. The maintenance of any portion of a fence which lies between Lots shall be the joint responsibility of each Lot owner on whose property the fence lies between. No portion of any fence shall extend more than eight (8) feet in height.

Section 2.11 Sidewalks. All sidewalks shall conform to City specifications and regulations.

Section 2.12 Mailboxes. Mailboxes shall be constructed of brick, masonry or other material approved by the Committee and shall be of standardized construction and appearance, similar to other mailboxes in the Addition. Mailboxes shall be arranged as gangboxes if and only if required by the U.S. Postal Service.

Section 2.13 Commencement of Construction. Each residence constructed on each lot and any other improvements thereto shall be commenced and completed with due diligence promptly after receipt of written approval by the Committee of the plans and specifications prepared in connection with such construction.

Section 2.14 Utilities. Except as to special street lighting or other aerial facilities which may be required by the City or which may be required by the franchise of any utility company or which may have been installed by the Declarant pursuant to its development plan, no aerial utility facilities of any type (except meters, risers, service pedestals, transformers and other surface installations necessary to maintain or operate appropriate underground facilities) shall be erected or installed in the Addition whether upon individual lots, easements, streets or rights-of-way of any type, either by the utility company or any other person or entity, including, but not limited to, any person owning or acquiring any part of the Addition, and all utility service facilities (including, but not limited to, water, sewer, gas, electricity and telephone) shall be buried underground unless otherwise required by a public utility.

## ARTICLE III

### ARCHITECTURAL REVIEW COMMITTEE

Section 3.1 Appointment. The Architectural Review Committee (herein called the "Committee") shall be composed of three (3) individuals, who may be members of the Board of Directors of the Association and who must be Owners, and shall be appointed by the Board to serve on the Committee. The Board of Directors in its discretion may increase the number of members of the Committee to up to five (5) members, who must be Owners.. If a vacancy is created on the Committee, the Board of Directors shall have the authority to fill such vacancy. The Board of Directors shall have the right to review any action or inaction taken by the Committee. If an Owner is not satisfied with the determination of the ARC and the Board of Directors, such Owner may put forth such matter for approval by the Owners. For the purposes of this Section 3.1 only, a decision of two-thirds (2/3<sup>rd</sup>) of the Owners of the lots shall control. Notwithstanding anything contained herein to the contrary, an Owner may ask for approval of other Owners, as provided hereunder, only after the Owner has obtained a decision from the Committee and the Board of Directors for matters contained in this Article III, with which the Owner is not satisfied.

Section 3.2 Successors. In the event of the death, resignation or removal by the Board of Directors of any member of the Committee, the Board of Directors of the Association shall have the unilateral right to designate and appoint a successor. No member of the Committee shall be entitled to compensation for, or be liable for claims, causes of action or damages arising out of services performed pursuant to this Declaration.

Section 3.3 Submittal of Plans. No building, fence, wall or other structure shall be erected, placed, maintained or altered on any lot, nor shall any exterior painting of, exterior addition to, or alteration of, such items be made until all plans and specifications have been submitted to and approved in writing by a majority of the members of the Committee. In some instances, the Committee may request an Owner to provide additional documents/information, including plot plans. Notwithstanding anything contained herein to the contrary, repairs, maintenance and/or alterations to an Owner's lot, which are the same as those previously approved by the Committee for the same Owner and lot shall not require approval of the Committee.

Section 3.4 Procedure for Approval. Final plans and specifications shall be submitted in duplicate to the Committee. The plans and specifications shall show the nature, kind, shape, height, materials and location of all landscaping and improvements. The documents shall specify any requested variance from the setback lines, garage location or any other requirement set forth in this declaration. The Committee is authorized to request the submission of samples of proposed construction materials. At such time as the plans and specifications meet the approval of the Committee, one complete set of plans and specifications will be retained by the Committee and the other complete set of plans shall be marked "Approved" or "Denied", and returned to the lot Owner or his designated representative. If the Committee fails to approve such plans and specifications within thirty (30) days after the date of submission, the plans shall be deemed to be approved.

Section 3.5 Standards. The Committee shall have discretion with respect to taste, design and all standards specified herein. The objective of the Committee is to prevent unusual, radical, curious, odd, bizarre, peculiar or irregular structures from being built in the Addition. The Committee shall also have the authority to generally require that any plans meet the standards of

the existing improvements on neighboring lots. The Committee may from time to time publish and promulgate bulletins regarding architectural standards, which shall be fair, reasonable and uniformly applied and shall carry forward the spirit and intention of this declaration.

#### ARTICLE IV

##### MEMBERSHIP IN THE ASSOCIATION AND VOTING RIGHTS

Section 4.1 Eligibility. Eligibility to vote or serve as a director shall be predicated upon a member being a Member in Good Standing with the Association. No member shall be allowed to vote or hold office if that member is noted of record (or within the records) of the Association to have a deed restriction violation on one or more lots within the Addition. A "Member in Good Standing" means a member who has all assessments of every type and category paid up to date, has no outstanding financial obligations to the Association that are delinquent and is not noted of record (or within the records) of the Association to have a deed restriction violation on any lots owned by such Member.

Section 4.2 Membership. Each Owner of a lot within the Addition, by virtue of such ownership shall be a member of the Association. This is not to imply that any holder of a mere security interest (such as a mortgagee, or holder of any other lien against property) would be a member, unless that holder of the security interest foreclosed and thereby became the Owner of the lot(s). Membership is appurtenant to and runs with the land. Membership is not severable as an individual right and cannot be separately conveyed to any party or entity. All duties and obligations set forth in this Declaration are the responsibility of each Member. No waiver of use of rights of enjoyment created by this Declaration shall relieve Members or their successors or assigns of such duties or obligations. Mandatory membership shall begin with the execution of this Declaration and pass with title to the land (regardless of any method of conveyance) to any subsequent grantee, successor, or assignee of Members. Notwithstanding anything contained herein to the contrary, lots 3 and 4 in Block B, pursuant to the plat thereof, recorded in Volume 388-191, Page 62 of the Plat Records of Tarrant County, Texas (also known as 4709 Green Oaks Drive) shall be treated as one lot and shall be entitled to one vote in the Association.

Section 4.3 Voting Rights. One vote shall be granted to every Owner for each lot owned. Multiple Owners of any single lot must vote in agreement (under any method they devise among themselves), but in no case shall such multiple Owners cast portions of votes. The vote attributable to any single lot must be voted in the same manner (i.e. all votes for, or all votes against a particular issue) but in no event can there be more than one vote cast per lot.

#### ARTICLE V

##### ASSESSMENTS

Section 5.1 Obligation to Pay Assessments. The Owner of each lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, hereby covenants and agrees and shall be deemed to covenant and agree to pay to the Association (or to such other collection agency as shall be designated by the Association) "Annual Assessments" and "Special Assessments", as hereinafter described, such assessments to be fixed, established and collected from time to time as hereinafter provided. The Annual Assessments,

Special Assessments, together with attorneys' fees, interest, and costs of collection thereof as hereinafter provided, allocable to each lot, shall be a charge on such lot.

Notwithstanding anything contained herein to the contrary, lots 3 and 4 in Block B, pursuant to the plat thereof, recorded in Volume 388-191, Page 62 of the Plat Records of Tarrant County, Texas (also known as 4709 Green Oaks Drive) shall be treated as one lot and shall be assessed as one lot and obligated to pay one assessment.

Section 5.2. Purpose of Assessments. The Assessments levied by the Association shall be used for any legal purpose for the benefit of the Addition, as determined by the Association, and in particular, may by way of illustration and not limitation or obligation, include maintenance, repair, or improvement of any Commonly Maintained Area, street lighting, mosquito control or other services as may be in the Addition's and Owners' interest. Parkways, roads, setbacks and entryways that are not contained in any Commonly Maintained Area may be included in the Association's maintenance if, in the discretion of the Board, the maintenance of such areas benefits the Association's members. Such share agreements for maintenance and improvement shall require the consent of a majority of the total number of directors of the Association. Additionally, assessments levied by the Association may be used, in the discretion of the Association, to pay the Association's fair allocation for maintenance costs for the participation in any agreement among other property owners associations (whether residential, multi-family, commercial or mixed use) in the area and for consolidated programs that provide consistency and economics of scale. Approval to enter such agreements shall require a majority vote of the Board. Assessments may also be used for the payment of taxes on and insurance in connection with the Commonly Maintained Areas and making of repairs, replacements and additions thereto, and for paying the cost of labor, equipment (including the expense of leasing any equipment), materials, management and supervision of the Commonly Maintained Area, and for carrying out the purposes of the Association as stated in its Articles of incorporation and Bylaws. Notwithstanding anything contained herein to the contrary, the Association may not spend Assessment funds for the benefit of any property or right of way that is not located within, adjacent to or contiguous with the Addition without the prior approval of Owners of a majority of the lots.

Section 5.3 Proration and Commencement. Any Owner who purchases or otherwise acquires a lot or lots after the first (1st) day of the month of each fiscal year shall be personally responsible for a pro-rated assessment for that year. Notwithstanding anything contained herein to the contrary, the Annual Assessment provided herein shall commence on the date fixed by the Board of Directors of the Association to be the date of commencement, and shall be payable at the times and in such installments, if any, as the Board of Directors of the Association shall direct by resolutions and in its written notice of the Annual Assessment to the Members; provided, however, that if no time is specified in such resolution and notice all Annual Assessments shall be payable within thirty (30) days following delivery of notice of such Annual Assessment to the Members.

Section 5.4 Procedure for Assessments

(a) Annual Assessment. The Annual Assessment shall be assessed against each lot to be payable by 1<sup>st</sup> day of the month of each fiscal year to cover the full fiscal year next succeeding the particular assessment date. The Annual Assessment, on the date of recording of this Declaration, shall be \$275.00 per lot. Thereafter, the Annual Assessment shall be levied at the discretion of the Board. The Board shall determine the sufficiency or insufficiency of the then current Annual Assessment to reasonably meet the expenses for providing services and capital improvements within the Addition and may, at its discretion

and without a vote by the Members, increase the annual Assessment in an amount up to ten percent (10%) over the previous year's Annual Assessment. The Annual Assessment may only be increased by more than ten percent (10%) over the preceding year's assessment if such increase is approved by Members in Good Standing who represent a majority of the lots in the Addition, present, in person or by proxy, at a meeting called for said purpose at which a quorum is present. The Annual Assessment shall not be adjusted more than once in a fiscal year nor shall any increase be construed to take effect retroactively, unless otherwise approved by members representing a majority of the votes subject to such assessments present at a meeting called for said purpose at which a quorum is present in person or by proxy.

The failure of the Association to fix the Annual Assessment as provided herein for any Assessment Year shall not be deemed a waiver or a release of any Owner or lot from the obligation to pay the Annual Assessment, but the Annual Assessment fixed for the preceding year shall continue from assessment year to assessment year until a new Annual Assessment is fixed.

Annual Assessments must be fixed at a uniform rate for all lots so that assessments made against any lot shall in no case be higher or lower than the assessment against any other lot.

(b) Special Assessment

In addition to the Annual Assessments authorized above, the Association may levy a Special Assessment applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement in the Commonly Maintained Area or any unusual, infrequent expense benefiting the Association, provided that any such assessment shall have the approval of Owners of a majority of the lots within the Addition, present at a meeting duly called for this purpose at which a quorum is present. Such Special Assessments will be due and payable as set forth in the resolution authorizing such assessment and shall be levied only against those Owners subject to the Annual Assessment as set forth in Section 5.4(b) hereof and shall be pro rated in accordance therewith. The Association, if it so chooses, may levy a Special Assessment against only those Owners benefited by or using the capital improvement for which the Special Assessment is being levied so long as such Special Assessment is approved by Owners of a Majority of the lots against whom such Special Assessment is being levied. Special Assessments shall be due upon presentment of an invoice, or copy thereof, for the same to the last-known address of the Owner.

Special Assessments shall commence on the date fixed by the Board of Directors of the Association to be the date of commencement, and shall be payable at the times and in such installments, if any, as the Board of Directors of the Association shall direct by resolutions and in its written notice of any assessment to the Members; provided, however, that if no time is specified in such resolution and notice all assessments shall be payable within thirty (30) days following delivery of notice of such assessment to the Members.

Section 5.5 Collection and Remedies.

(a) The assessments provided for in this Declaration, together with attorneys' fees, interest, late fees and costs as necessary for collection, shall be a charge upon the land against which each such assessment is made. Each such assessment, together with attorney's fees, interest and costs, shall also be the personal obligation of the Owner of the

land at the time the assessment became due. This personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by them.

(b) Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of (1) eighteen percent (18%) or (2) the maximum non-usurious rate of interest. No Owner may waive or otherwise escape liability for the assessments provided for in this Declaration by reason of non-use or abandonment.

(c) No diminution or abatement of any assessment shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs, replacements or additions to the Commonly Maintained Area or from any action taken to comply with any law, ordinance or order of government authority, or with this Declaration.

(d) The Association has the right to file suit, for the collection of such assessments, attorneys' fees, late fees, and costs, against an Owner who fails to pay any assessment due hereunder.

## ARTICLE VI

### ENFORCEMENT

Section 6.1 Generally. The covenants, conditions, restrictions, easements, uses, privileges, and assessment provided in this Declaration shall run with the Addition and be binding upon and inure to the benefit of the Association, and each Owner, their respective heirs, successors and assigns. Unless otherwise provided in the Declaration, the right, without the obligation, to enforce the provisions of this Declaration shall be vested in the Association and each Owner of a lot. A breach of any of the provisions of this Declaration shall give to the party entitled to enforce such provision the right to bring a proceeding at law or in equity against the party or parties breaching or attempting to breach this Declaration and to enjoin such party or parties from so doing to cause such breach to be remedies or to recover damages resulting from such breach. A breach of this Declaration by an Owner relating to the use or maintenance of any portion of the Addition or portion thereof is hereby declared to be and constitute a nuisance and every public or private remedy allowed by law or equity for the abatement of a public or private nuisance shall be available to remedy such breach. In any legal or equitable proceedings for the enforcement of this Declaration or to restrain a breach thereof, the party or parties against whom judgment is entered shall pay the attorney's fees and costs of the party or parties for whom judgment is entered in such amount as may be fixed by the Court in such proceedings. All remedies provided under this Declaration, including those at law or in equity, shall be cumulative and not exclusive. No party having the right to enforce this Declaration shall be liable for failure to enforce this Declaration. Notwithstanding, anything contained herein the contrary, it is understood that only the Association has the exclusive and sole right to levy and collect the assessments provided in this Declaration or any dedicatory instrument, as the term is described in the Texas Property Code.

Section 6.2 Authority to Promulgate Rules and Regulations. The Board of Directors has the authority to promulgate reasonable rules and regulations concerning enforcement of the covenants and restrictions contained in this Declaration and/or amendments concerning the use and enjoyment of Commonly Maintained Areas.

Section 6.3 Attorney's Fees. In addition to all other remedies that may be available, after notice and an opportunity to be heard as required by Chapter 209 of the Texas Property Code as same may be amended, the Association has the right to collect attorney fees from any Owner that

is in violation of this Declaration, any applicable amendments, guidelines promulgated by the Committee, or any other rule or regulation promulgated by the Association.

Section 6.4 Remedies. Every Owner shall comply with all provisions of this Declaration, the By-Laws, and the rules and regulations of the Association, all other dedicatory instruments of the Association and any amendments or supplements to any of the foregoing. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association. In addition, the Association may avail itself of any and all remedies provided in this Declaration, any amendment, Supplemental Restriction, the By-Laws or any other dedicatory instruments. Notwithstanding anything contained herein to the contrary, the Board of Directors shall have no duty, legal or otherwise, to institute legal or other proceedings on behalf of or in the name of an Owner.

Section 6.5 Enforcement by Owners. Each lot Owner is empowered to enforce the covenants; provided, however, no Owner shall have the right to enforce any rights retained by the Association regarding Assessments.

## ARTICLE VII

### GENERAL PROVISIONS

Section 7.1 Easements. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat and over the rear five (5) feet of each lot. Easements are also reserved for the installation, operation, maintenance and ownership of utility service lines from the property lines to the residences. By acceptance of a deed to any lot, the Owner thereof covenants and agrees to mow weeds and grass and to keep and maintain in a neat and clean condition any easement which may traverse a portion of the lot. Further, there is hereby reserved for the Association an easement over, across, under and upon any Commonly Maintained Area for the maintenance of the Commonly Maintained Area.

Section 7.2 Recorded Plat. All dedications, limitations, restrictions and reservations shown on the plat are incorporated herein and shall be construed as being adopted in each contract, deed, or conveyance, conveying lots in the Addition, whether specifically referred to therein or not.

Section 7.3 Lot Maintenance. The Owner and occupant of each lot shall cultivate an attractive ground cover or grass on all yards visible from the street, shall maintain the yards in a sanitary and attractive manner and shall edge the street curbs that run along the property line.

Section 7.4 Maintenance of Improvements. Subject to the provisions of this Article VII, each lot Owner shall maintain the exterior of all building, fences, walls and other improvements on his lot in good condition and repair, and shall replace worn and rotten parts, and shall regularly repaint all painted surfaces and shall not permit the roofs, rain gutters, downspouts, exterior walls, windows, doors, walks, driveways, parking areas or other exterior portions of the improvements to deteriorate in an unattractive manner.

Section 7.5 Mortgages. It is expressly provided that the breach of any of the foregoing conditions shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, as to the same premises or any part thereof encumbered by such mortgage or

deed of trust, but said conditions shall be binding thereto as to the lots acquired by foreclosure, trustee's sale or otherwise, as to any breach occurring after such acquisition of title.

Section 7.6 Term and Amendment. These covenants, conditions and restrictions shall be binding on all parties and all persons and parties claiming under them, unless an instrument signed by Owners of more than fifty percent (50%) of the lots within the Addition has been recorded, agreeing to change said restrictions, reservations, and covenants in whole or in part.

Section 7.7 Severability. If any condition, covenant or restriction herein contained shall be invalid, which invalidity shall not be presumed until the same is determined by the judgment or order of a court of competent jurisdiction, such invalidity shall in no way affect any other condition, covenant or restriction, each of which shall remain in full force and effect.

Section 7.8 Binding Effect. Each of the conditions, covenants, restrictions and agreements herein contained is made for the mutual benefit of, and is binding upon, each and every person acquiring any part of the Addition, it being understood that such conditions, covenants, restrictions and agreements are not for the benefit of the Owner of any land except land in the Addition, and the same shall inure to the benefit of Owners of land in the Addition and the Association, its successors and assigns. This instrument, when executed, shall be filed of record in the deed records of the County so that each and every Owner or purchaser or any portion of the Addition is on notice of the conditions, covenants, restrictions and agreements herein contained.

Section 7.9 Definition of "lot". As used herein, the term "lot" shall mean a parcel of property as defined by the recorded plat and/or any replat thereof as one lot in the Map Records of Tarrant County, Texas, and encumbered by this Declaration. The term lot shall include "Lake Lots" as defined in the recitals hereinabove. A homesite may be constructed on one or more lots; each such lot will be subject to the rights and duties of membership in the Association and there shall be an assessment due for each lot owned as defined by the then plat of record. Notwithstanding anything contained herein to the contrary, lots 3 and 4 in Block B, pursuant to the plat thereof, recorded in Volume 388-191, Page 62 of the Plat Records of Tarrant County, Texas (also known as 4709 Green Oaks Drive) shall be treated as one lot and shall be (a) assessed as one lot, and (ii) entitled to one vote in the Association.

Section 7.10 Definition of "Owner". As used herein, the term "Owner" shall refer to the record owner, whether one or more persons or entities (including contract sellers), of the fee simple title to a lot on which there is or will be built a single-family residence, but not including those having an interest merely as security for the performance of an obligation.

Section 7.11 Definition of "Commonly Maintained Area". As used herein, the term "Commonly Maintained Area" shall mean all real or personal property, maintained by the Association, on the date of recording of this Declaration, for the common use and/or enjoyment of the Owners, which shall include the street lights within the Addition, the greenbelt that runs from the curb line of Glade Road to the brick fence that runs along the perimeter of the Addition (including the Green Oaks Drive entrance, and the northwest corner of Glade Road and Jackson Road), the island, owned by the City, at the intersection of Glade Road and Jackson Road, and the island, owned by the City, at the fountain entrance at the intersection of Lakeside Drive and Jackson Road.



Section 7.12 Other Authorities. If other authorities, such as the City or County, impose more demanding, expensive or restrictive requirements of such authorities shall be complied with. Other authorities' imposition of lesser requirements than those set forth herein shall not supersede or diminish the requirements herein.

Section 7.13 Addresses. Any notices or correspondence to an Owner of a lot shall be addressed to the street address of the lot. Each Owner shall have the obligation to inform the Association, in writing, of any change of address for such Owner for purposes of notices to be provided pursuant to this Declaration.

Section 7.14 Yards. Grass, weeds and vegetation on each lot in this Addition must be kept mowed at regular intervals so as to maintain the same in a neat and attractive manner. Upon failure to so maintain a lot, the Association or its assigns may, at its option, have the grass, weeds and vegetation cut when, and as often as necessary in its judgment, and the Owners of the property shall be obligated to reimburse the Association or its assignee for the cost of such work.

Section 7.15 Section Approval. In order to be effective this Declaration must be approved by at least a simple majority (50%+1) of the Owners of lots within the Addition and recorded in the Real Property Records of Tarrant County, Texas.

Section 7.16 Multiple Counterparts. This Declaration may be executed in multiple counterparts. It shall not be required that all Owners sign the same counterpart. After all such counterparts have been executed, the undersigned singularly and collectively, authorize the Board of the Association to remove all pages containing signatures from the various counterparts and attach such signature pages to one complete copy of this Declaration for the purpose or recording the same in the Official Public Records of Real Property of Tarrant County, Texas.

Section 7.17 Signatories. The undersigned are all Owners of lots within the Addition. By their signature hereon and by checking "Approve" hereunder, the undersigned represent that they own the lot described next to their name and that they are executing this Declaration in consideration of the mutual benefits to be derived by their lot and the other lots within the Addition.

Section 7.18 Conflict. In case of conflict between this Declaration and the Original Declaration, this Declaration shall control.

IN WITNESS WHEREOF, the undersigned, being at least a simple majority (50%+1) of the Owners of the lots within the Addition, have executed this Declaration as of the dates of their respective acknowledgments to be effective upon the date this Declaration is filed in the Official Public Records of Real Property of Tarrant County, Texas.

[SIGNATURE PAGE FOLLOWS]

BROOK MEADOWS HOMEOWNERS  
ASSOCIATION, INC., a Texas non-profit  
corporation

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

STATE OF TEXAS            §  
  §  
COUNTY OF \_\_\_\_\_ §

BEFORE ME, the undersigned notary public, on this day personally appeared \_\_\_\_\_, the \_\_\_\_\_ of the Brook Meadows Homeowners Association, Inc., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same for the purpose and consideration therein expressed.

SUBSCRIBED AND SWORN TO BEFORE ME, on this the \_\_\_\_\_ day of \_\_\_\_\_, 2006, to certify which witness my hand and official seal.

\_\_\_\_\_  
Notary Public – State of Texas

I/We, the owner(s) of the Lot(s) located at \_\_\_\_\_ in Brook Meadows Addition, Colleyville Texas, indicate my/our response regarding the foregoing as the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for the Brook Meadows Addition (the "Declaration"). We acknowledge that in addition to having received the Declaration, we have received and reviewed the revision to the last sentence of Section 7.1 of the Declaration that, as amended, reads as follows: "Further, there is hereby reserved for the Association an easement over, across, under and upon any Commonly Maintained Area for the maintenance of the Commonly Maintained Area.." I/We have considered the revised Section 7.1 in indicating our response below.

APPROVE  
[ ]

DISAPPROVE  
[ ]

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_  
Lot \_\_\_\_\_, Block \_\_\_\_\_, Brook Meadows Addition \_\_\_\_\_

APPROVE  
[ ]

DISAPPROVE  
[ ]

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_  
Lot \_\_\_\_\_, Block \_\_\_\_\_, Brook Meadows Addition \_\_\_\_\_

STATE OF TEXAS §  
§  
COUNTY OF \_\_\_\_\_ §

BEFORE ME, the undersigned notary public, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same for the purpose and consideration therein expressed.

SUBSCRIBED AND SWORN TO BEFORE ME, on this the \_\_\_\_\_ day of \_\_\_\_\_, 2006, to certify which witness my hand and official seal.

\_\_\_\_\_  
Notary Public – State of Texas

STATE OF TEXAS §  
§  
COUNTY OF \_\_\_\_\_ §

BEFORE ME, the undersigned notary public, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same for the purpose and consideration therein expressed.

SUBSCRIBED AND SWORN TO BEFORE ME, on this the \_\_\_\_\_ day of \_\_\_\_\_, 2006, to certify which witness my hand and official seal.

\_\_\_\_\_  
Notary Public – State of Texas