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RESTRICTIONS

OF

TALEA COURT AT QUINTESSENCE

A Declaration of Restrictions, Covenants and Conditions for  
the Creation and Maintenance of a Planned Residential Development



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Mary Herrera      Bern. Co. RSTN      R 37.00

## TALEA COURT SUBDIVISION RESTRICTIONS

A Declaration of Restrictions, Covenants and Conditions for  
the Creation and Maintenance of a Planned Residential Development

**THIS DECLARATION** is made as of May 13, 2004, by Stillbrooke Homes, Inc., a New Mexico corporation ("Grantor"), with respect to that certain real property situate in Bernalillo County, New Mexico and more particularly described as follows:

Lots numbered 1 through 14, inclusive of the Plat of the Talea Court Subdivision as recorded in the real estate records of the Clerk of Bernalillo County, New Mexico, on

It is hereby declared that all of the described real property is subject to this Declaration which is for the purpose of creating and maintaining a planned residential development on the described real property and for the improvement and protection of the value, desirability and attractiveness of the described real property.

It is the purpose of this Declaration to create a planned unit residential development originally consisting of **14** single family dwellings with each dwelling to be located on an individually owned lot on public streets, with portions of certain lots subject to easements for the benefit of the community.

This Declaration shall run with the described real property and shall be binding upon and inure to the benefit of Grantor, each Owner of the described real property or any part of it, and each successor in interest of Grantor and any such Owner.

### ARTICLE 1 Definitions

Unless the context otherwise specifies or requires, the terms defined in this Article 1 shall have the meanings as defined in this Article for the purposes of these Restrictions.

#### Section 1.01: Architectural Control Committee.

The terms "Architectural Control Committee" or "Committee" shall mean the architectural control committee created pursuant to Article 5.

#### Section 1.02: Grantor.

The term "Grantor" shall mean Stillbrooke Homes, Inc., a New Mexico corporation, its successors and assigns, who are assigned, in writing, all or part of Grantor's powers and responsibilities for all or a specific area or portion of the Subdivision and who accept such powers and responsibilities in writing. All such assignments and agreements to accept the obligations of Grantor shall be recorded. Each person or entity named as Grantor in an assignment may exercise the rights of Grantor provided by these Restrictions for the area assigned, but no general power, such as the power to annex, shall be partially assigned, except for an assignment of all rights under this Declaration.

#### Section 1.03: Improvements.

The term "Improvements" shall include, without limitation, buildings, out-buildings (including sheds and storage buildings), roads, driveways, parking areas, fences, retaining walls, privacy walls or fences, subdivision exterior walls or fences, stairs, decks, windbreaks, poles, antennas, signs, utility or communication lines installations and equipment (whether above or underground), and any structure and excavation of any type or kind.



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Section 1.04: Lot.

The term "Lot" shall mean each of the 14 lots designated as Lots 1 through 14 on the Plat together with the Improvements located on each such Lot.

Section 1.05: Mortgage.

The term Mortgage shall mean a deed of trust, as well as a mortgage, and the term "Mortgagee" shall mean a beneficiary under or a holder of a deed of trust, as well as a Mortgagee.

Section 1.06: Owner.

The term "Owner" shall mean the persons or entities, including Grantor, holding the beneficial ownership of the fee, including the purchaser under a contract of sale, and shall not include persons holding only a security interest or a seller under a contract of sale. For the purposes of the Article entitled, "Permitted and Prohibited Uses of Property," unless the context otherwise requires, "Owner" shall include the family, invitees, licensees and tenants of any Owner.

Section 1.07: Plat.

The term "Plat" shall mean all of the real property shown on the Plat and comprising the plat of \_\_\_\_\_, as recorded in the Bernalillo County, New Mexico real estate records on \_\_\_\_\_.

Section 1.08: Subdivision.

The term "Subdivision" shall mean the subdivision known as Talea Court, Planned Residential Development subdivision created by and subject to this Declaration.

Section 1.09: Subdivision Restrictions.

The term "Subdivision Restrictions" shall mean, with respect to all property within the Subdivision, the limitations, easements, restrictions, covenants, and conditions set forth in this Declaration, as this Declaration may from time to time be amended. The term "This Declaration" and the title to this Declaration shall have the same meaning as "Subdivision Restrictions."

**ARTICLE 2**

Property Subject to Subdivision Restrictions

Section 2.01: Initial Development.

All of the property shown on the Plat is subject to and benefited and burdened by the Restrictions.

**ARTICLE 3**

Permitted and Prohibited Uses of Property; Encroachments

Section 3.01: Permitted Uses of Property Within the Subdivision.

a. Improvements and development within the Subdivision shall be limited to residential single family dwellings, either attached or detached having a minimum of 1,500 square feet of heated living area, associated parking, garages, roads and access ways, landscaped areas, and all public or private service and utility facilities related to such uses, including, but not limited to, drainage, sewer, gas, water, electric and communication facilities. No dwelling shall be used as a boarding house or divided into apartments or rooms for rental purposes. This subsection does not prevent the rental or lease of the whole dwelling by the Owner



thereof, but any such rental or lease must be by a written agreement that requires the tenant to observe these Restrictions. No dwelling may be leased or rented for a period of less than thirty (30) days.

b. Grantor shall, so long as Grantor is the owner of any Lot, have all of the rights of use set out in the Article entitled, "Limitation of Subdivision Restrictions on Grantor."

Section 3.02: Prohibited Uses of Subdivision.

a. In no event shall any Lot 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, or be used in any other way inconsistent with the Subdivision Restrictions.

b. No illegal, noxious or offensive activity shall be carried on within the Subdivision. No light shall be emitted from any Lot that is unreasonably bright to cause unreasonable glare to any residences. No sound shall be emitted on or from any Lot that is unreasonably loud or annoying. No odor shall be emitted from any Lot that is noxious or offensive to others. Nothing shall be done or placed which may be or become a nuisance, or cause unreasonable embarrassment, disturbance, or annoyance to Owners in the enjoyment of their dwellings.

c. No signs whatsoever, including, but without limitation, commercial or similar signs, visible from other Lots, shall be erected or maintained upon any Lot, except:

1. Such signs as may be required by legal proceedings or are useful for such proceedings.
2. During the time of construction of any structure or other improvement, job identification signs having a maximum face area of twenty-four (24) square feet per sign and of the type usually employed by contractors, subcontractors, and tradesmen.
3. Appropriate safety, directional, and identification and safety signs installed by Grantor, or required by law.
4. Customary "for sale" or "for rent" signs.
5. Such residential or commercial identification signs as Grantor has the right to maintain, or as are specifically approved by the Board in accordance with the rules adopted by the Board.

d. Except as provided otherwise by this Section, no mobile home, motor home, recreational vehicle, motorcycles, campers, trailers, boat, or similar facility, structure or recreational equipment shall be kept, placed, or maintained within the Subdivision at any time, unless enclosed within a standard size garage or within the side or rear yard so as not to be visible from any street, or the ground floor of neighboring homes. The provisions of this subsection shall not apply to (i) temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any work or improvement permitted by this Declaration, (ii) a recreational vehicle parked in the driveway or the street for a period not to exceed 24 hours, and (iii) a guest's use of a recreational vehicle for a period not to exceed one week per ninety (90) days.

e. Any outside clothes lines or other outside clothes drying or airing facilities shall be maintained exclusively within a fenced yard in such a way as not to be visible from streets and the ground floor of neighboring dwellings.

f. No garbage, clippings from trees, shrubs or lawns, trash, ashes or other refuse may be thrown, dumped or allowed to accumulate on any land within the Subdivision and no garbage or trash shall be placed in or on any of the Common Areas. All garbage and trash must be placed in the proper receptacle designated for refuse and recycling collection. There shall be no burning of refuse out of doors, except for the burning of natural materials in connection with land clearance or fire control. No incinerators or other device for the burning of refuse indoors shall be constructed, installed or used by any person except in conformity with law and approved by the Board.

g. No animals, livestock, horses, insects or poultry of any kind shall be kept, raised, or bred in the Subdivision. Dogs, cats and other household pets in reasonable numbers may be kept, providing they are not kept, raised or bred for commercial



or hobby breeding purposes. Such household pets, except cats, must be restrained on a leash or otherwise under the direct control of an individual when in the Subdivision.

h. All exterior spot or directional lighting of any sort, the light source of which is visible from neighboring Lots, shall be approved, in writing, by the ACC prior to installation.

i. No exterior antenna of any sort shall be installed or maintained on any Lot or within the Subdivision, except those devices which are erected, installed, placed or maintained and used entirely under the eaves or enclosed within a building or structure or are not visible from the ground level of other Lots. This provision shall remain enforceable even if enforcement action is not commenced within the time limitations otherwise provided by the Subdivision Restrictions.

j. Satellite dishes less than eighteen inches (18") in diameter may be attached to the eaves of the garage, provided they are at least ten feet (10') back from the front of the garage.

k. Reasonable efforts shall be made to screen a mechanical device installed or maintained on the roof or exterior surface of any dwelling if such device would otherwise be visible from the street which the dwelling faces.

l. No vehicles of any type shall be permanently or semi-permanently parked in any portion of the Subdivision visible from other Lots for purposes of repairs or reconstruction, or storage. A vehicle shall be deemed parked for storage if it is not driven out of the Subdivision for thirty (30) consecutive days.

m. No trucks or other commercial vehicles shall be kept or maintained in the Subdivision, except within standard size garages, and except where customary or required for the limited purposes of building, repairing, refinishing, or maintaining the Subdivision or a dwelling, or for the purpose of moving household goods or other necessary or customary furnishings, equipment or supplies in or out of the Subdivision.

n. Except temporarily during a construction period, all utility lines, including, but not limited to, electrical, gas, telephone, cable television, and other communications systems shall be underground, except for access ports and aboveground transformers.

o. No portion of the Subdivision shall be used for any purpose or in any manner which would increase the rate at which insurance against loss or damage by fire and the perils covered by extended coverage, bodily injury, property damage liability insurance, covering any other dwelling may be obtained, or cause any other dwelling to be uninsurable or have such insurance canceled or suspended.

p. No vehicles may be parked in the front yard or side-yard of any residence other than on paved surfaces, which paved surfaces have been approved by the Committee prior to construction. No portion of the front yard, or the portions of the side yard visible from the street, shall be used for storage of any kind.

q. Exterior Christmas season lights and decorations shall be removed by the end of January of each year.

r. Exterior trash containers shall be kept in back or side yards, and shall be promptly returned to the back or side yard after trash pick-up day.

s. Not more than one (1) flag may be displayed, whether attached to a residence or separately located on a Lot. The maximum height of a flagpole, whether attached to a residence or separately located on a Lot, shall be 10 feet.

Section 3.04: Encroachment Easements.

Should minor variations between lot lines as shown on the Plat and actual physical lot boundaries (such as walls, including interior party walls, and fences) occur, either due to original construction, reconstruction, repair or due to the settling, shifting or movement of structures, a valid easement shall exist for the encroaching Improvements for so long as the encroachment exists.



## Duties and Responsibilities of Owners

### Section 4.01: Owner's Responsibility to Repair.

Each Owner shall be responsible for the maintenance and repair of his dwelling, his Lot, and his landscaping and all walls on his Lot and any park strip or common area that is immediately adjacent to, in front of or behind his Lot. All improvements upon any Lot will at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Lot owner. Each owner will keep all shrubs, trees, and plantings of every kind on his Lot cultivated, pruned, free of trash, and other unsightly material. All improvements upon

### Section 4.02: Joint Maintenance by Owners.

a. Each wall, which is built as part of the original construction of the Subdivision and placed on the dividing line between Houses, shall constitute a party wall. Each part of the structure of a building, which is shared by more than one dwelling, is a common structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omission shall apply.

b. The cost of reasonable repair, maintenance and replacement of a party wall, common structure or joint utility shall be shared by the Owners who make use of the wall in proportion to such use.

c. Notwithstanding any other provision of this Section, an Owner who, by his negligent or willful act, causes a party wall foundation or common structure to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

d. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the Lot and shall pass to such Owner's successors in title.

e. Any Owner has the right to raise a party wall to a height of six feet (6') above existing grade without the prior consent of the adjacent owner, provided the property is not a boundary to another subdivision. The addition shall match the original construction, style and materials and will be at the expense of the Owner raising the wall, unless agreed to by the parties. Owners shall not regrade the Lot inconsistent with the drainage plan approved by the City of Albuquerque.

### Section 4.03: Parking Areas, Vehicles.

For overnight parking, each Owner shall park his vehicle in his garage, except that when there are more vehicles used by the Owner than his garage will accommodate. Vehicles may be parked only in garages, driveways, or on the street, never on any landscaped areas and/or front yards, side yards or rear yards.

### Section 4.04: Maintenance of Landscaping.

Each Owner shall maintain the landscaping on his lot in a neat and attractive manner. All grass, mass plantings and other plantings shall be mowed, irrigated, trimmed and cut as necessary at regular intervals. Owners of lots adjacent to common areas between sidewalks and walls are responsible for that area that is contiguous with the property line. Including those areas behind the wall or adjacent to the wall at rear and side of the property.

### Section 4.05: Observance of Subdivision Restrictions.

Each Owner shall comply with the Subdivision Restrictions and will cause and be responsible for Owner's family, agents, guests, contractors, employees and any person renting or leasing Owner's dwelling to do likewise.

### Section 4.06: Rights of Action.

Each Owner shall have a right of action against Owners for failure to comply with the provisions of this Article 4 of the Subdivision Restrictions.





**ARTICLE 5**  
Construction and Architectural Control

Section 5.01: Architectural Control Committee.

An Architectural Control Committee for the Subdivision is hereby established consisting of the following three persons:

Russ Reece  
Elliott Isenberg  
Adil Rizvi

The Committee shall serve at the pleasure of the Grantor who shall have the right to appoint, reappoint and discharge members of the Committee at will so long as Grantor owns any Lots within the Subdivision, including Lots that may be subsequently annexed into the Subdivision. The purpose of the committee is to enforce the architectural standards of the community and to approve or disapprove plans for improvements proposed for the lots. When Grantor no longer owns any Lots within the Subdivision, the provisions of this Article 5.01 shall lapse. However, the lapse of Article 5.01 shall not impair the right of any Owner to enforce the design provisions of these Restrictions.

Section 5.02: Construction of Improvements.

(a) Before anyone shall commence on any Lot within the Subdivision the installation of construction of, remodeling of, addition to, or alteration of any Improvement [the term Improvement is defined in Section 1.03, and includes but is not limited to fencing and walls] of whatsoever nature; and before anyone shall re-roof, paint, texture, repaint or retexture (including re-stucco) the exterior surfaces of any Improvement, there shall be submitted to the Committee plans and specifications as follows:

(i) Preliminary or tentative plans and specifications which shall clearly show the nature of the work or installation proposed and the location thereof, on the Lot, which such preliminary or tentative plans shall include sufficient description of materials, colors, textures, dimensions, etc. together with a landscaping plan as shall enable the Committee to evaluate whether the proposed construction, alteration, installation, etc. will harmonize with the motif and style of the Subdivision and be compatible with surrounding homes;

(ii) After approval of the preliminary or tentative plans, including therein any requirements made by the Committee in the due and proper exercise of its discretion and powers, two complete sets of the final plans and specifications;

(iii) No Improvement of any kind, installations, painting or texturing, shall ever be, or permitted to be, erected, constructed, installed, placed or maintained on any Lot within the Subdivision, unless and until the final plans, specifications and elevations therefore shall have received written approval of the Committee. All such final plans shall include plot plans showing the location on the Lot of all Improvements proposed to be constructed and/or installed, planted, placed or maintained on the Lot and shall further include elevations, together with the proposed color scheme and textures for roofs and exteriors thereof, indicating the materials for same.

The Committee is authorized to charge not more than \$100.00 for review of plans and specifications. Payment of the required charge shall be a part of, and condition to, the submittal of plans and specifications for committee approval. The Committee shall have the right to grant a "blanket" approval of improvements and/or landscaping plans which will be placed on more than one Lot.

(b) The Committee shall approve or disapprove within thirty (30) days after receipt thereof plans and specifications, which have been submitted to it. One set of plans and specifications, with the Committee's approval or disapproval and requirements endorsed thereon, shall be returned to the applicant and the other copy thereof, with a duplicate endorsement thereon corresponding to the first set, shall be retained in the Committee's files.

In the event that the Committee shall fail to approve or disapprove the plans, specifications and other information within thirty days after receipt thereof by the Committee, then such approval shall not be required, provided that no structure, building or other improvement shall be installed, erected, painted, textured, altered or modified which violates



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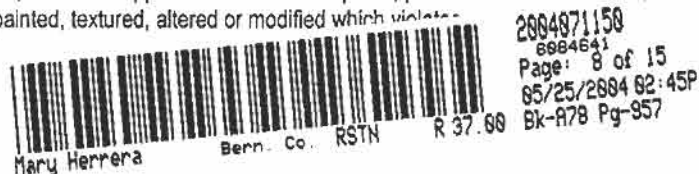
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The Committee shall have the right and power to disapprove any plans, specification or details submitted to it, if the Committee shall find that the plans and specifications are not in accord with all provisions of this Declaration, or if a design or color scheme submitted is not in harmony and accord with the Subdivision, or surrounding homes, or if the plans and specifications are incomplete.

(c) If any Improvement or work is completed or done without compliance with this Article, such Improvement or work shall be deemed to have been done in compliance with this Article if no action has been commenced to enforce the provisions of this Article against such Improvement or work within one (1) year of its completion.

(d) Pursuant to Section 5.01, upon all Lots being sold by Grantor, and with the lapse of Article 5.01, then the owner must secure a vote of no less than two-thirds (2/3) of all owners to commence with any endeavor in 5.02 or 5.03, if altered or different from the original construction design or finish.

Section 5.03: Design Guidelines.

The Committee may from time to time adopt or amend design guidelines for approval of Improvements. The Committee may grant variances from its Design Guidelines. The initial Design Guidelines are as follows:

a. Roofs:

All homes shall have one of the following roofs: (i) cement tile of non-reflective, earth tone colors. Blue shall not be considered an earth tone. Pitched roofs shall have a pitch no greater than 58% [7 foot vertical rise per 12 foot horizontal].

b. Exterior Finish:

Stucco colors shall be light earth tones ranging from white to medium brown. Dark brown, gray, gold, blue, green or pink stucco finish shall not be permitted. Trim colors shall be compatible with the approved colors for exterior finishing within the subdivision, and shall be of the white or beige to tan tones. However, accent colors for shutters, small doors, entrance doors or architectural detail smaller than the front door shall be allowed provided they are not fluorescent, lime-green, orange, bright yellow, pink, purple or any family of colors therein.

c. Walls:

Masonry block walls with a minimum of six (6) courses cap shall be constructed on the side lot lines from the rear lot line to the rear of both houses, and if the location of one house is unknown to the rear of the located house plus ten feet (10') minimum. Wood gates or wrought iron gates shall be placed in the return walls. Wood gates shall be painted to match the house or stained earth tone or wood colors.

It is the intention of these Restrictions that the exterior walls of the Subdivision constructed by the Grantor shall be uniform in size, color and appearance. Nothing is to be attached to these walls without the express written consent of the Architectural Control Committee or two-thirds (2/3) vote of all owners.

d. Garages:

All homes must have at least a two- (2) car garage. Garages may not be converted to living space unless a substitute garage is constructed which is approved by the Committee or a garage for at least two (2) cars will remain after the conversion. No more than a three- (3) car garage may face the street.

e. Setbacks.

Homes shall have a minimum twenty-foot (20') front yard setback.



f. Landscaping.

(1) The Owner shall be obligated to landscape the front yard of all Lots and the side yard on corner Lots at transfer of title to the first owner occupied or within 30 days of issuance of Certificate of Occupancy by the City of Albuquerque

(2) The minimum landscaping of the front yard is to consist of one of the following plans:

COMBINATION WITH SOD

- a. Yard areas to be landscaped with low and medium water use shrubbery and/or live ground cover plants as established by the City of Albuquerque Water Use Ordinance (see City plant list). Xeriscape or a maximum of 20% of yard area to be high water use turf.
- b. Non-living ground cover shall consist of 3/4" crushed gray or tan gravel with filter fabric. Tree bark is not permitted as a ground cover except as permitted in planting beds and tree wells.
- c. At least one, one inch (1") deciduous shade tree.
- d. At least five (5) one gallon shrubs or wild flowers.
- e. Steel edging shall be used between the sod and gravel.
- f. Automatic pop-up sprinkler system for turf and/or integral trickle irrigation for shrubs.

XERISCAPE WITHOUT SOD

- a. One five (5) gallon ornamental tree, pinon tree, pine tree or palm yucca.
- b. A minimum of five (5) one gallon shrubs or wild flowers.
- c. One boulder with accent of oversized gravel.
- d. Three-fourth inch (3/4") crushed gray or tan gravel with filter fabric.
- e. Automatic trickle irrigation and indicator bubblers.
- f. Tree bark is not permitted as a ground cover except as permitted in planting beds and tree wells.
- g. No lava rock shall cover more than 10 square feet of the yard area.

(3) Three-fourth inch (3/4") crushed gray gravel with filter fabric is to be placed between the curb and the sidewalk at the front of the Lot. Owner is obligated to maintain this strip and keep it free from weeds.

(4) All landscaping shall be in accordance with the ordinance adopted by the City of Albuquerque. Owners are encouraged to implement water conservation measures initiated by the City of Albuquerque.

(5) Fine grading is critical aspect of landscaping. Each Lot has been graded so that all storm water will drain away from the house. It is extremely important that this drainage pattern be maintained when preparing the landscape design, especially if mounding or berming is proposed. Because of the difficulty and importance of maintaining individual lot drainage



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patterns and creating natural appearing mounding, it is recommended that a landscape professional be consulted.

(6) Ornamental objects in front and side yards residential landscaping such as drift wood, animal skulls, flamingos, old farm implements, etc., is discouraged and will be permissible only with written approval of the Architectural Control Committee, or two-thirds (2/3) vote of all owners.

(7) Any alterations or modification of the landscaping are to be approved by the Architectural Control Committee.

g. Accessory Structures.

Accessory structures are limited to one per Lot, with the maximum size of eight feet (8') by ten feet (10') with a maximum height of eight feet (8') above grade at the highest point. The color of any accessory structure shall be the same exterior materials as the original structure and shall be maintained to match. Accessory structures are to be placed in the rear yard and in accordance with any zoning and building requirements by the City of Albuquerque.

Section 5.04: Estoppel Certificate.

Within thirty (30) days after written demand is delivered to the Committee by any Owner, and upon payment to the Committee of a reasonable fee to cover costs from time to time to be fixed by the Committee, the Committee shall provide Owner with an Estoppel certificate executed by one of the members of the Committee, and acknowledged, certifying with respect to any House owned by said Owner, that as of the date thereof either (1) all Improvements and other work made or done upon or within said House by the Owner, or otherwise, comply with this Declaration, or (2) such Improvements or work do not so comply, in which event the certificate shall also (a) identify the non-complying Improvements and work and (b) set forth with particularity the cause or causes for such noncompliance. Any purchaser from the Owner, or mortgagee or other encumbrancer shall be entitled to rely on said certificate with respect to the matters therein set forth, such matters being conclusive as between Grantor, and all Owners and such purchaser, and mortgagee.

Section 5.05: Liability.

The, Committee as a whole, or any of its members, shall not be liable to any Owner for any damage, loss, or prejudice suffered or claimed on account of:

- a. The approval of any plans, drawings, and specifications, whether or not defective,
- b. The construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications,
- c. The development or manner or development of any property within the Subdivision, or
- d. The execution and recording of an Estoppel certificate whether or not the facts therein are correct; provided, however, that the officer executing the certificate, with the actual knowledge possessed by him, has acted in good faith.

Without in any way limiting the generality of the foregoing, the Committee, or any member thereof, may, but is not required to, consult with or hear any Owner with respect to any plans, drawings, or specifications, or any other proposal submitted to it.

**ARTICLE 6**  
Limitation of Subdivision Restrictions on Grantor



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Section 6.01: Limitation of Subdivision Restrictions on Grantor.

Grantor is undertaking the work of constructing the Subdivision. The completion of that work and the sale, rental and other disposition of the Lots is essential to the establishment of the Subdivision. In order that said work may be completed and said property be established and fully occupied as rapidly as possible, nothing in this Declaration shall be understood or construed to:

- a. Prevent Grantor or its agents, employees, and contractors from doing on the properties whatever is reasonably necessary or advisable in connection with the completion of the work; or
- b. Prevent Grantor or its agents, employees, and contractors from erecting, constructing and maintaining on any part or parts of the Subdivision, such structures as may be reasonably necessary for the conduct of its business of completing the work and establishing the Subdivision, including, without limitation, sales offices, model units, general business offices for its staff, employees and contractor, and storage and parking facilities for materials and equipment, and disposing of the Subdivision in parcels by sale, lease or otherwise; or
- c. Prevent Grantor from conducting on any part of the properties its business of completing the work, and of establishing and disposing of the Subdivision;
- d. Prevent Grantor from maintaining such sign or signs on the Subdivision as may be necessary for its sale, lease, or disposition, or the sale, lease or disposition of any Lot.

Section 6.02: Use of Subdivision Name.

Grantor, or its assigns, may use the name of the Subdivision and the Subdivision Restrictions in other subdivisions or projects, whether located adjacent to the Subdivision or not, provided such names have a distinctive number or other designation so that they are not identical with the names of the Subdivision.

Section 6.03: Architectural Control.

Improvements by Grantor and declarants to the Subdivision do not require approval of the Committee.

Section 6.04: No Amendment or Repeal.

The provision of this Article may not be amended or repealed without the consent of Grantor.

**ARTICLE 7**  
Miscellaneous Provisions

Section 7.01: Amendment or Repeal, Duration.

a. This Declaration may be amended from time to time by written amendment executed by Owners owning seventy-five percent (75%) of the Lots, which Amendment shall become effective upon recording with the Bernalillo County Real Estate Records.

b. Notwithstanding Section 1 of this Article, Grantor shall have the authority to unilaterally change, amend or modify this Declaration until Units have been constructed on all Lots, provided, that such changes, modifications or amendments do not materially change the character and quality of the Lots subject to this Declaration and do not materially increase the number of Lots within the Property and; provided further, that the prior written consent of the Architectural Control Committee has been obtained.

At any time during which Grantor is the only owner of property within the Subdivision, Grantor may amend or correct these Restrictions by a recorded instrument of amendment or correction.



c. All of the provisions of these Restrictions shall continue and remain in full force and effect at all times with respect to all property, and each part thereof, included within the Subdivision, to the Owner subject; however, to the right to amend and terminate as provided for in this Article, through December 31, 2051; provided that these Restrictions shall terminate if, within one (1) year prior to December 31, 2051, there shall be recorded an instrument directing the termination of these Restrictions signed by two-thirds (2/3) of the Owners of record title. These Restrictions in effect immediately prior to the expiration date shall, subject to the provisions of Section 7.01a, be continued automatically without any further notice, for an additional period of ten (10) years unless within one (1) year prior to expiration of such period these Restrictions are terminated as set forth in this Section.

Section 7.02: Enforcement; Non-Waiver; No Forfeiture.

a. Except to the extent otherwise expressly provided herein, any Owner or Owners shall have the right to enforce any and all of the provisions now or hereafter imposed by the Subdivision Restrictions upon other Owners, or upon any property within the Subdivision.

b. Except to the extent otherwise expressly provided herein, any Owner or Owners shall have the right to enforce any and all of the provisions now or hereafter imposed by the Subdivision Restrictions.

c. Every act or omission whereby any restriction, condition, or covenant of the Subdivision Restrictions is violated, in whole or in part, is hereby declared to be and to constitute a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by an Owner or Owners, as provided for in this Section.

d. Each remedy provided for in the Subdivision Restrictions is cumulative and not exclusive.

e. The failure to enforce the provisions of any limitation, restriction, covenant, condition, obligation, lien, or charge of the Subdivision Restrictions shall not constitute a waiver of any right to enforce any such provision or any other provision of the Subdivision Restrictions.

f. No breach of any of the provisions of the Subdivision Restriction shall cause any forfeiture of title or reversion or bestow any rights of re-entry whatsoever.

g. Reasonable attorney's fees and costs shall be awarded in any action brought to enforce the provisions of the Subdivision Restrictions.

Section 7.03: Construction; Compliance with Laws; Severability; Singular and Plural; Titles.

a. All of the limitations, restrictions, covenants, and conditions of the Subdivision Restrictions shall be liberally construed, together, to promote and effectuate the beneficial operation of the Subdivision.

b. No provision of the Subdivision Restrictions shall be construed to excuse any person from observing any law or regulation of any governmental body having jurisdiction over such person or the Subdivision.

c. Notwithstanding other provisions in this Section, the limitations, restrictions, covenants, and conditions of the Subdivision Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision, or portion thereof, of any of such limitations, restrictions, covenants, or conditions shall not affect the validity or enforceability of any other provision.

d. The table of contents and all titles used in the Subdivision Restrictions, including those of Articles and Sections, are intended solely for convenience of reference and the same shall not, nor shall any of them affect that which is set forth in such Articles, Sections, nor any of the terms or provisions of the Subdivision Restrictions. Any numbered or lettered subdivision of a Section is referred to as "subsection" or "subsections" and any indented portion of this Declaration which is unnumbered and unlettered shall be referred to as "Paragraph."

Section 7.04: Lot Splitting; Consolidation.

a. No Lot within the Subdivision shall be split unless 2/3 of all Owners give their written consent.



b. No two or more lots within the Subdivision shall be consolidated into one Lot unless 2/3 of all owners shall have given their written consent.

c. Nothing contained in this Section shall apply to the splitting of any Lots by Grantor or the consolidation of two or more Lots into one Lot by Grantor.

Section 7.05: Obligations of Owners.

No Owner, through the abandonment of his Lot, may avoid the burdens or obligations imposed on him by the Subdivision Restrictions by virtue of his being an Owner.

Section 7.06: No Partition or Severance of Interests.

There shall be no partition or severance of any Lot, from the Subdivision and the Grantor, and Owners shall not seek to partition or sever any part of a Lot from the Subdivision, nor shall they have any right to maintain an action for judicial partition in connection with the Subdivision unless such right is expressly given by the Subdivision Restrictions. This provision shall not prevent the partition of any Lot or Lots held in joint ownership as long as no physical partition takes place and there is no severance from any incident of the Subdivision Restrictions.

Section 7.07: Notices, Documents, Delivery.

Any notice or other document permitted or required by the Subdivision Restrictions to be delivered may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to an Owner of any Lot within the Subdivision owned by the Owner or at such other address given by Owner, in writing.

If to Grantor:  
Stillbrooke Homes, Inc.  
8901 Adams Street NE, Suite A  
Albuquerque, New Mexico 87113

Any such address may be changed from time to time by any Owner, or by Grantor by notice in writing, delivered to all Owners.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

Stillbrooke Homes, Inc. a New Mexico Corporation

By:   
Scott Henry  
President





