



**DECLARATION
OF
COVENANTS, CONDITIONS, EASEMENTS & RESTRICTIONS**

GABRIELS OVERLOOK - SECTION FIVE

WHEREAS, 452, Ltd., a Texas limited partnership, ("Declarant"), did execute that certain prior Declaration of Covenants, Conditions, Easements and Restrictions for Gabriels Overlook - Section One dated April 26, 2000, of record as Document No. 2000025866 of the Official Public Records of Williamson County, Texas; and

WHEREAS, 452, Ltd., a Texas limited partnership, ("Declarant"), did execute that certain prior Declaration of Covenants, Conditions, Easements and Restrictions for Gabriels Overlook - Section Two dated September 13, 2000, of record as Document No. 2000061650 of the Official Public Records of Williamson County, Texas and amended in that certain First Amendment to Declaration of Covenants, Conditions, Easements and Restrictions for Gabriels Overlook - Sections One and Two dated January 10, 2001, of record as Document No. 2001003269 of the Official Public Records of Williamson County, Texas; and

WHEREAS, said prior Declarations established covenants, conditions, easements and restrictions pertaining to the following property owned by Declarant, to-wit:

GABRIELS OVERLOOK - Section One, a subdivision in Williamson County, Texas, as shown by plat recorded in Cabinet S, Slides 218-229, Plat Records of Williamson County, Texas, ("Section One"),

GABRIELS OVERLOOK - Section Two, a subdivision in Williamson County, Texas, as shown by plat recorded in Cabinet T, Slides 66-75, Plat Records of Williamson County, Texas, ("Section Two"), and

WHEREAS, Declarant hereby desires to incorporate into the Gabriels Overlook development additional real property and modify the restrictive covenants with respect to said additional real property in accordance with the provisions of this Declaration, and

WHEREAS, Declarant is authorized by said prior Declarations to incorporate additional real property into the Gabriels Overlook development and modify the covenants, conditions, easements and restriction with respect to said additional real property in accordance with paragraph 4.12 therein.

NOW THEREFORE, Declarant hereby incorporates the following described real property within the Gabriels Overlook development:

Lots 1 through 34; GABRIELS OVERLOOK - SECTION Five, a subdivision in Williamson County, Texas, as shown by plat recorded in Cabinet AA, Slides 35-37, Plat Records of Williamson County, Texas (an individual lot hereinafter referred to as a "Lot"; and these Lots, as a whole, hereinafter referred to as either "Section Five" or the "Subdivision").

Declarant does hereby declare and impose upon Section Five the following covenants, conditions, easements, and restrictions for the purpose of carrying out a uniform plan for the development of a quality residential neighborhood. The covenants, conditions, easements, and restrictions of this declaration (hereinafter the "Declaration") shall apply to and become a part of all legal instruments whereby title or possession to any Lot within Section Five is hereafter conveyed or transferred. The covenants, conditions, easements, restriction, established hereby, will run with the land and will be binding upon and inure to the benefit of all parties, now or hereafter, owning or using the above-described property or any portion thereof, their heirs, executors, administrators, successors, and assigns.

ARTICLE 1 RESTRICTIONS

- 1.01 **Residential Use:** All Lots are hereby restricted exclusively to single-family residential use. No Lot shall ever be used for a business or commercial purpose. No structures shall be erected, placed or maintained on any Lot other than a conventional on-site constructed single-family residence with such accessory structures and buildings as a storage building, workshop, garage, guest house and servant's quarters. No barns are allowed on any Lot. Not more than one single-family residence may be erected on a Lot. The term "conventional on-site constructed single-family residence" shall exclude specifically mobile homes, double-wide mobile homes, house trailers, modular homes and move-on homes.
- 1.02 **Size and Specifications:** No building, structure or other improvement shall be commenced, erected, placed or maintained on any Lot, nor shall any addition to or change or alteration thereto be made, until the construction plans and specifications, and a plot plan showing the location of all such structures and all appurtenances thereto, have been submitted to and approved by the Gabriels Overlook Architectural Control Committee (hereinafter referred to as the "Committee"). A residence and primary driveway must be completed prior to occupancy. Seventy-five (75) percent of the total slab area under roof including porches and garages must have a roof pitch of 8/12 or greater. All out side walls of all floors must have a stud length of at least nine (9) feet.
- a. Each residence constructed on Lots 1-34 shall have not less than 2,600 square feet of heated and air-conditioned space, exclusive of basements, garages, and porches (said square footage hereinafter "HVAC square feet"). Multi-story dwellings constructed on said Lots shall have not less than 2,800 HVAC square feet with not less than 1,800 HVAC square feet on the first floor.
 - b. All residences must have, at a minimum, an enclosed two-car garage with a minimum square footage of 550 square feet either attached to or detached from the residence.

Porte-cocheres are permitted with Committee approval. The primary garage shall be constructed with either side entry or rear entry doors only. The garage door opening of residences constructed on corner Lots shall not face either street. A secondary garage may be constructed with either side or rear entry doors only, and located behind the rear building projection line of the residence. Side entry means the garage doors must be perpendicular to the street(s). All detached garages, and any other storage buildings or structures of any kind exceeding 100 square feet, must use the same 75% masonry, paint color, and shingles as the residence. All structures and storage buildings of any kind exceeding 100 square feet must be on site construction.

- c. At least 75% of the total exterior of any residence must be masonry including rock, brick or stucco. Any masonry siding product such as concrete Hardi Plank, or similar product does not comply with this masonry requirement. The masonry requirement also applies to all detached garages, and any other type of detached structure exceeding 100 square feet. The masonry requirement may be deviated from, at the Committee's discretion, when a residence exceeds 3,500 HVAC square feet.

1.03 Setback Requirements and Front and Rear Building Lines:

- a. Setback Requirements: Residences constructed on all Lots shall be subject to a front building line setback of not less than eighty five feet (85') from the front property line. Residences, garages, and all other buildings and structures shall be subject to a building line setback of not less than twenty (20') feet from any side property line and thirty (30') feet from any rear property line. Construction of improvements on corner Lots shall also be subject to a side building line setback not less than thirty (30') feet from the property line adjacent to the side street. The front, side and rear building projection lines of improvements constructed on any Lot as defined in paragraph 1.03 (b), (c), and (d) below shall not encroach upon the building line setbacks described herein. Primary detached garages shall be constructed behind the front building projection line of the residence. All secondary garages, workshops, storage sheds or other authorized outbuildings shall be constructed behind the rear building projection line of the residence.
- b. Front Building Projection Line: The front building projection line is that line parallel to the front property line which intersects the most forward projection of an improvement constructed on any Lot, including roof overhangs, decks, and porches.
- c. Rear Building Projection Line: The rear building projection line is that line parallel to the rear property line which intersects the rear-most projection of an improvement constructed on any Lot, including roof overhangs, decks, and porches.
- d. Side Building Projection Line: The side building projection line is that line parallel to the side property line which intersects the side-most projection of an improvement constructed on any Lot, including roof overhangs, decks, and porches.

- 1.04 **Driveways and Construction Access:** The first one hundred (100) feet of any driveway from the edge of pavement must be either concrete, or brick/concrete pavers. Hot-mix asphalt pavement is allowed more than one hundred (100) feet back from the edge of pavement. Oil and gravel type driveways (commonly called chip coat) or gravel only driveways are prohibited. Storm water drainage structures (pipes) under private driveways are not allowed in the road right of way . Only dip type driveways are allowed in the road right of way. The surface of dip type driveways constructed in the right-of-way must be level with the surface of the ground, so as not to obstruct the flow of storm water. All required permits must be obtained from Williamson County before driveway construction. During construction of the residence on any Lot, the builder or owner will be required to power wash or hand shovel mud, gravel and rocks tracked onto the street by construction vehicles. Tractors or front-end loaders are not permitted to scrape the asphalt surface of streets to remove construction debris, mud, gravel and rocks from Subdivision roads. The builder must install a solid rock (not base material) construction entrance with a minimum rock size of three(3) inch by three(3) inch, for a minimum of thirty (30) feet onto the lot before construction can begin. Access to the building site can only be across this construction entrance and not across other areas of the subject building lot , or across any other lots in the subdivision.
- 1.05 **Quality Workmanship and Maintenance:** All improvements and structures including, but not limited to homes, garages, fences, storage buildings, and other improvements shall be constructed of quality material and in a workmanlike manner. All improvements shall be maintained to prevent deterioration and to insure that their appearance will not be detrimental to the Subdivision.
- 1.06 **Storage of Equipment and Other Personal Property:** All equipment and personal belongings situated on the Lot must be stored within an enclosed structure. Storage buildings and storage sheds may not be placed or built on the Lot prior to the commencement of construction of the residence. Temporary construction buildings or trailers must be removed from the Lot within 15 days of the completion of construction of the residence.
- 1.07 **Easements:**
- a. Public utility Easements are hereby reserved and dedicated over and across a thirty-five foot (35') strip along roadway frontage and ten feet (10') along each rear and side lot line for the purpose of installing, maintaining and repairing electric power, gas, telephone, water, cable, community mailbox stations, drainage and/or any other similar utility lines, facilities, and services for the Lots in the Subdivision. The easements reserved and dedicated hereby shall be for the general benefit of the Subdivision. These easements shall inure to the benefit of, and may be used by, any public or private company entering into and upon the Property for such purposes, without the necessity of any further grant of such easement rights to such companies. Any lot owner installing a fence or other improvement within the area encumbered by the easement does so at his own risk. If two or more Lots are consolidated into a building site in conformity with the provisions of paragraph 1.09, these easement provisions and the setback provisions in paragraph 1.03 shall be applied to such resultant building site as if it were one original platted Lot. Trees

and shrubbery within or adjacent to easements are subject to trimming or removal during construction and/or maintenance of subdivision improvements.

- 1.08 **Platted Easements**: In addition to the easements described in paragraph 1.07 herein, each Lot shall be subject to all easements, set-back lines, covenants and restrictions set forth in the recorded plat of the Subdivision. In the event of a conflict between the terms of this Declaration and the easements and setback lines depicted on the recorded Subdivision plat, the terms of this Declaration shall be controlling.
- 1.09 **Restriction on Further Subdivision**: There shall be no dividing, subdividing, or re-subdividing allowed of any of the Lots in the Subdivision into smaller Lots or tracts. All Lots in the Subdivision will remain the size platted on the Subdivision plat, except that any person owning two or more adjoining Lots may consolidate such Lots into a single building site.
- 1.10 **Sewage**: Wastewater and sewage shall be disposed of by means of sanitary sewer systems or similar approved means of sanitary sewage disposal which meet the requirements of and are approved by all governmental authorities having jurisdiction thereof. No residence shall be used until sanitary sewage disposal facilities complying with this paragraph have been completely built and approved by the governmental authority.
- 1.11 **Water System**: All residences constructed within the Subdivision shall obtain household water by connection to the Chisholm Trail Special Utility District ("CTSUD"). CTSUD is not owned by or affiliated with Declarant. The operation of the water system and the fees and charges assessed by CTSUD for tap fees and supply charges are regulated by the Texas Commission on Environmental Quality. A property owner shall not request the setting of a water meter from CTSUD until commencement of construction of the residence on said property owner's Lot.
- 1.12 **Drainage Structures, Ditches, Lakes and Stock Tanks**: Drainage structures, ditches, lakes and stock tanks shall not be altered, constructed, or changed without prior written approval from the Committee and appropriate government agencies.
- 1.13 **Trash Disposal and Construction Debris**: No Lot shall ever be used for outside, unenclosed storage of any items or materials whatsoever, nor shall any Lot or part thereof be used or maintained as a dumping ground for rubbish or debris or junk. Each homeowner must have trash removal service and trash, garbage or other wastes shall not be permitted except in sanitary trash containers. Sanitary trash containers will be placed on the street no sooner than the evening before the day of trash pickup and returned to storage on the day of trash pickup. All sanitary trash containers shall be kept in a clean and sanitary condition beside or behind the residence. Cut or trimmed brush on occupied or non-occupied Lots must be disposed of within 15 days of cutting. During construction of a residence on any Lot, builder shall maintain a construction trash receptacle on site and all construction debris, paper and trash, shall be placed in the receptacle on a daily basis. Construction debris must be removed from the job site within seven (7) days.

- 1.14 **Nuisances:** No noxious, noisy, offensive, or unlawful activity shall be conducted on any Lot, nor shall anything be done or permitted to be done thereon which may be or become a nuisance or annoyance to the owners of Lots or the Committee. Any determination by the Committee that an activity is noxious, noisy, offensive, or unlawful shall be final and binding on all parties.
- 1.15 **Vehicles, Boats and Trailers:** All non-operating and non-regularly used vehicles, and all boats, boat trailers, travel trailers, campers, recreational vehicles, motor homes, tractors, golf carts, go carts, four wheelers, bikes, jet skis, and all other recreational vehicles of any kind, and yard equipment must be stored in enclosed structures at all times. None of the items are allowed on any Lot until construction of the residence is completed. Non-regularly used vehicles means vehicles used less than one time per week.
- 1.16 **Pets:** No more than three (3) pets, including dogs, cats or other common household pets, may be maintained on any Lot. Offspring younger than 12 weeks are excluded from this limitation. The commercial breeding of animals is prohibited. No pets may be maintained on a Lot if they become a nuisance. The Committee's determination that a pet is a nuisance shall be final and binding on all parties.
- 1.17 **Pet Containment:** All pets shall be contained within the lot lines by approved fencing. Pets may not be maintained on the Lot prior to the occupancy of the residence. Pet enclosures must be constructed of new material, and must be kept neat and clean in appearance. All pet enclosures must be located behind the rear building line no closer than 30 feet to the side and rear property lines and within the fenced area.
- 1.18 **Fences:** The Committee must review and approve all fencing plans prior to the commencement of construction of any fences. As guidelines, galvanized chain link, barbed wire, and other galvanized agricultural wire fencing are prohibited. Dark-colored vinyl coated chain link, masonry, and wrought iron metal fencing are permitted behind the front building projection line of the residence. Wood privacy fencing or other similar privacy fencing is only allowed on the side and rear property lines behind the rear building projection line, and is not allowed from the residence to the side property line. Masonry privacy fencing is allowed from the residence to the side property line and on the side and rear property lines behind the front building projection line. All fence lines must be mowed and kept clean of weeds, trash and garbage at all times. All fences must be well maintained to prevent sagging and deterioration and installed in a workmanlike professional manner. Fence height may not exceed eight (8) feet from the ground.
- 1.19 **Silt Fences:** Owners are required to construct silt fencing on the down hill side of their Lot prior to commencement of construction so as to prevent unfiltered storm water drainage onto adjoining properties. The location of all silt fencing shall be noted on the construction plans when submitted to the Committee. Silt fencing must be maintained in place until all disturbed areas have been re-vegetated as reasonably determined by the Committee.

- 1.20 Signs: Three signs are permitted on a lot, no larger than four (4) square feet each in surface area which advertises (a) the property for sale or rent, and/or (b) an open house, and/or (c) the identity of the builder. All other signs are prohibited except as per paragraph 1.21.
- 1.21 Model Homes: Declarant may authorize home builders to maintain model homes within the subdivision. Declarant may also authorize home builders to maintain signage on Model home lots with the sign design to be approved by the Declarant.
- 1.22 Mailboxes: Community mailbox facilities shall be constructed in various locations within the Subdivision. The Association shall maintain such mail facilities. Individual street-side mailboxes are not permitted within the Subdivision.
- 1.23 Antennae: No exterior radio, television or any other type of broadcast antenna shall be higher than 30 feet as measured from the ground at the location of the antenna. All satellite dish receivers larger than three feet (3') in diameter must receive prior written approval of the Committee as to size and location.
- 1.24 Hunting and Firearms: Hunting, trapping and discharge of firearms are expressly prohibited within the Subdivision.
- 1.25 Clothes Drying Facilities: Outside clothes lines or other facilities for drying or airing clothes outside the residence shall not be permitted.
- 1.26 Oil, Gas and Mineral Development: No oil or gas drilling, exploration or development operations, oil or gas refining or treatment, quarrying or mining operations of any kind shall be permitted on any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on any Lot. No derrick or other structure designed for use in boring for oil, natural gas or other minerals shall be erected, maintained or permitted on any Lot.
- 1.27 Parking: Streets shall not be used for parking except for emergency parking of vehicles. No continuous parking of automobiles or any other type of vehicle will be permitted on any street or road right-of-way in the Subdivision at any time. Vehicles for all construction personnel must park on the lot where they are working, not on the roadways, and not on the road ditches and grassy areas of the Right of Way.
- 1.28 Use of Chemicals: Property owners are required to adhere to "Best Management Practices" as promulgated by the Texas Commission on Environmental Quality with respect to the use of pesticide, herbicide, and fertilizer within the subdivision. The Association and Declarant are authorized to promulgate and enforce specific chemical guidelines.
- 1.29 Temporary Occupancy of Lot: There shall be no overnight or weekend camping on any Lot prior to the completion of the residence on such Lot.
- 1.30 Swimming Pools: All swimming pools must be constructed in-ground. Above-ground pools are prohibited.

- 1.31. Propane Tanks. Propane tanks must be buried below ground level. Refill valves may extend above ground level.

ARTICLE 2

GABRIELS OVERLOOK PROPERTY OWNERS ASSOCIATION, INC.

- 2.01 Organization: The Association is a non-profit corporation created by Declarant for the purposes, and charged with the duties, vested with the powers prescribed by law and organized, all as set forth in its Articles, Bylaws and the Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.
- 2.02 Membership: Any person or entity upon becoming an owner of a Lot shall automatically become a member of the Association. Membership shall be appurtenant to and shall run with the property interest which qualifies the owner thereof for membership, and membership may not be severed from, or in any way transferred, pledged, mortgaged, or alienated except together with the title to such property interest.
- 2.03 Voting Rights: The right to cast votes and the number of votes which may be cast for election of members to the Board of Directors of the Association, and on all other matters to be voted on by the members, shall be calculated as follows:
- a. The owner (excluding Declarant) of each Lot shall have one (1) vote for each Lot owned;
 - b. Declarant shall have five (5) votes for each Lot owned by Declarant;
- 2.04 Duties of the Association: Subject to and in accordance with this Declaration, the Association, acting through the Board, shall have and perform each of the following duties:
- a. To enforce the covenants, conditions, easements and restrictions of Gabriels Overlook, Sections One, Two and Five. For purposes of this Declaration, the term "Subdivision" shall hereinafter include Sections One, Two and Five of Gabriels Overlook.
 - b. To improve, maintain, manage, repair, replace, clean, inspect and protect any property conveyed to the Association and any Common Area, including all improvements, landscaping and equipment located therein or thereon. Lot 115 of Section One is specifically designated as parkland in the Subdivision Plat of Section One. The Association shall maintain said park and promulgate rules for its use;
 - c. To improve, maintain, manage, and repair, the Subdivision roadways and drainage facilities;

- d. To improve, maintain, manage, and repair the entry-way to the Subdivision and related signage, landscaping, improvements and equipment;
- e. To perform any duties and obligations assigned to the Association by the Declarant;
- f. To make, establish and promulgate, and in its discretion to amend or repeal and re-enact such Association Bylaws not in conflict with this Declaration, as it deems proper, covering any and all aspects of its functions;
- g. To keep books and records of the Association's affairs;
- h. To obtain and maintain in effect policies of insurance which in the Board's judgment are reasonably necessary or appropriate to carry out the Association functions; and
- i. To maintain, manage, replace, improve and protect any other function pertaining to the well-being of the Subdivision.

2.05 Power to Indemnify and to Purchase Indemnity Insurance: The Association shall indemnify and may reimburse, and/or advance expenses, and/or purchase and maintain insurance, or any other arrangement on behalf of any person who is or was a director or officer of the Association against any liability asserted against such person and incurred by such person in such a capacity or arising out of his status as such a person to the maximum extent permitted by Article 1396 §2.22A of the Texas Non-Profit Corporation Act, as such Act may from time to time be amended (without regard, however, to Section Q of such Article with respect to officers of the Association who are not directors of the Association). Further, the Association may indemnify and/or reimburse and/or advance expenses and/or purchase and maintain insurance or any other arrangement on behalf of any person, other than any person who is a director of the Association, who is or was an officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another corporation, partnership, joint venture, sole proprietorship, trustee, employee benefit plan or other enterprise, against any liability asserted against such person and incurred by such person in such a capacity or arising out of his status as such a person, to such extent (or in the case of officers of the Association, to such further extent), consistent with applicable law, as the Board may from time to time determine. The provisions of this paragraph 2.05 shall not be deemed exclusive of any other rights to which any such person may be entitled under any Bylaw, agreement, insurance policy, vote of members or otherwise.

2.06 Annual Maintenance Charge: Beginning April 1, 2005, each Lot in Section Five of the Subdivision, excluding Lots owned by Declarant, is subject to an annual maintenance charge (hereinafter the "AMC"). The initial AMC of Three Hundred Dollars (\$300.00) per year shall be due and payable beginning April 1, 2005, and annually thereafter on or before April 1 of each year. The amount of the AMC for each Lot may be increased or decreased by the Board of Directors from time to time, but not more often than one per year. In the event the Board of Directors shall seek to increase or decrease the AMC by more than twenty percent (20%) in relation to the preceding year, the change must be approved by a vote of

Association members at a meeting duly called for such purpose. Written notice of the meeting with explanation of the proposed action shall be sent to each member of the Association not less than fifteen (15) nor more than thirty (30) days in advance of the meeting. Twenty-five percent (25%) of all members of the Association shall constitute a quorum and such increase or decrease shall not be levied unless approved by a majority of those voting at such meeting. The amount of the AMC shall be determined on or before March 1 of each year with the exception of the initial AMC and written notice of such assessment shall be sent to each member of the Association on or before March 15 of each year. If no notice is delivered by the Association by such date, the amount of the AMC for that year shall remain the same as the prior year and shall be due on or before April 1 of that year. In the event any member shall fail to pay an assessment on or before May 1 of each year, the AMC shall be deemed delinquent and shall be subject to a late charge to be determined by the Board. The Association voting rights of delinquent property owners shall be suspended until the delinquency is cured. Purchasers who purchase Lots from Declarant shall pay a pro-rated AMC from date of purchase through the following April 1. Notwithstanding the foregoing, the initial Board of Directors of the Association shall not increase the annual maintenance charge unless such increase is approved by a vote of Association members, excluding Declarant, said vote held in the same manner as described in this paragraph.

- 2.07 Portion of Annual Maintenance Charge for Subdivision Roadway and Drainage Facility Maintenance: Two Hundred and no/100 Dollars (\$200.00) out of each AMC shall be dedicated for Subdivision roadway and drainage facility maintenance. In the event such funds are not expended for such purpose in any one year, such funds shall be maintained in an account by the Association for succeeding years Subdivision roadway and drainage facility maintenance expenditures. Declarant is authorized to modify the \$200.00 allocation to Subdivision roadway and drainage facility maintenance conditioned upon the preparation of a revised fifteen year budget demonstrating adequate funding for such expenditures.
- 2.08 Special Assessment: In addition to the AMC the Board of Directors of the Association may levy a special assessment at any time deemed necessary, applicable for one year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, maintenance, and repair of Subdivision property authorized by this Declaration to be administered by the Association, including Subdivision roadways and drainage facilities.
- 2.09 Vote on Special Assessment: If ten percent (10%) of the members of the Association object in writing to the levy of any special assessment, within thirty (30) days of the special assessment notice, such assessment shall not be valid unless and until it has been approved by a vote of Association members at a meeting duly called for such purpose. Written notice of the meeting with explanation of the proposed action shall be sent to each member of the Association not less than fifteen (15) nor more than thirty (30) days in advance of the meeting. Twenty-five percent (25%) of all members of the Association shall constitute a quorum and such special assessments shall not be levied unless approved by a majority of those voting at such meeting.
- 2.10 Obligations of Lot Owners: Each lot owner in the Subdivision, excluding Declarant, covenants and agrees, and by acceptance of a deed or contract for sale to such Lot is deemed

to covenant and agree to pay the Association the AMC and any special assessment. The AMC, the WAMC and any special assessment for rock berm maintenance, lot cleaning or otherwise, together with interest, costs, and reasonable attorneys fees, shall, to the full extent permitted by law, be a charge and a lien on the Lots subject to this Declaration and each shall be a continuing lien upon the property against which such assessment is made. The AMC and any such special assessment, together with interest, costs, and reasonable attorneys fees, shall be the personal obligation of each lot owner. The Association shall have the duty and obligation to establish, collect and administer such assessments. The lien of any assessment shall be subordinate to the lien of any first mortgage.

- 2.11 **Title:** The Association shall accept delivery of any deed or bill of sale executed by Declarant conveying property within or adjoining the Subdivision, or addition thereto, to the Association.

ARTICLE 3

ARCHITECTURAL CONTROL COMMITTEE

- 3.01 **Membership:** The Committee shall be composed of not more than three (3) persons. Members of the Committee need not be members of the Association. The following persons are hereby designated as the initial members of the Committee: Rex Bohls, Laura Bohls and Doug Lewis.
- 3.02 **Duties:** The Committee shall consider and act upon any and all plans and specifications submitted for its approval pursuant to this Declaration and perform such other duties assigned to it by this Declaration, or as from time to time shall be assigned to it by the Board. The Committee shall review plans and specifications submitted for its review and such other information as it may reasonably require related to the construction of improvements within the Subdivision. The Committee is specifically authorized to review and approve the location and height of all improvements constructed on any Lot to preserve views from adjacent Lots. The Committee shall have the authority to disapprove any proposed improvement based upon the restrictions set forth herein and the decision of the Committee shall be final and binding. The Committee shall not be responsible for inspecting any proposed improvement, nor shall its approval of any plans or specifications be deemed approval of any improvement as to structural safety, engineering soundness or conformance with any building or other codes.
- 3.03 **Declarant's Right of Appointment:** Declarant, its successors and assigns shall have the right to appoint and remove all members of the Committee. Declarant may delegate this right to the Board by written instrument. Thereafter, the Board shall have the right to appoint and remove all members of the Committee. Each member of the Committee shall hold office until such time as he or she has resigned or has been removed and his or her successor has been appointed.

- 3.04 Review of Construction, Alteration or Removal of Improvements: The Committee's approval or disapproval or other actions as required in these covenants shall be by majority vote, shall be evidenced in writing and shall be delivered in person or by a letter sent by US mail addressed to the requesting party at an address which must be supplied with the submission of the plans. In the event the Committee should fail to approve or disapprove the plans, specifications and plot plans for construction, alteration or removal of improvements within fifteen (15) days after they have been submitted to it, it will be presumed that the same have been approved, provided the same were submitted to the Committee in writing by certified mail, return receipt requested, with an address provided to which the reply should be mailed. The judgment of the Committee in the exercises of its discretion in this respect shall be final and conclusive.
- 3.05 Construction of Improvements: Construction of any improvement approved by the Committee shall commence within two (2) months of such approval; and the construction of a new residence must be completed within ten (10) months of the commencement of construction. Additions, remodels, or expansions must be completed within three (3) months of the commencement of construction, unless otherwise approved.
- 3.06 Lot Cleaning: All Lots, and the area extending from the Lots to the paved road surface, must be kept clean and clear of unsightly weeds, grass, brush and refuse. If an owner has failed to comply with this provision within 15 days of written notice by the Committee, the Committee shall have the right to clean and clear the Lot of unsightly weeds, grass, brush, trash, and refuse. Such cleaning and clearing will be at the expense of the particular lot owner and for which a lien in favor of the Association, or its assigns, may be placed upon the property, including interest, costs, and attorneys fees.
- 3.07 Waiver: The Committee may grant such waivers of any of the restrictions contained in this Declaration as it considers appropriate based upon the quality and design of a proposed Improvement.
- 3.08 Address: Plans and specifications shall be submitted to the Committee in care of Doug Lewis, 1301 S. IH 35, Suite 200, Austin, TX 78741 or such other address as may be designated from time to time in writing by the Committee.

ARTICLE 4

GENERAL

- 4.01 Enforcement: Declarant, the Association, and any person owning any interest in any of the Lots in said Subdivision, including mortgage interest, may enforce these restrictions through a proceeding at law or in equity against the person or persons violating or attempting to violate any covenant, condition, restriction, or limitation, either to prevent or to correct such violation, or to recover damages, or to obtain other relief for such violation. All expenses, including a reasonable attorney fee, shall be recovered from anyone violating these restrictions by the party bringing the suit.

- 4.02 Monetary Fines. The Board of Directors of the Gabriels Overlook Property Owners Association is hereby authorized to impose monetary fines as a means of enforcement of the Declarations, the payment of the Annual Maintenance Charge, and any amendments to the Declarations, which sums shall be collected in the same manner as the Annual Maintenance Charge or Special Assessment as set forth herein. In the event the Board of Directors has determined that an Owner is violating the Declarations, the Board of Directors shall provide the violating Owner with a written notice at the violating Owner's last known address describing the violation, and the violating Owner shall have thirty (30) days from the date of the notice within which to cure the violation. In the event the violating Owner fails to cure the violation within the 30-day cure period, the Board of Directors is hereby authorized to impose monetary fines for each day the violation continues. Failure by the Board of Directors to promptly enforce the forgoing monetary fines shall in no event be deemed a waiver of the right to impose the monetary fines at any time during the term of the violation. The Board of Directors is also hereby authorized to record a notice in the real property records concerning any violation of the Declaration by any Owner and the monetary fine imposed therefor.
- 4.03 Limitations of Liability: The Declarant, the Association and its Board of Directors, the Committee and any member of the Committee, shall not be liable in damages or otherwise to any owner of any Lot within the subdivision by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with: (a) the approval or disapproval, or failure to approve or to disapprove any plans, specifications, or plot plans; (b) the enforcement of, or the failure to enforce, the covenants, conditions, easements and restrictions of this Declaration; or (c) any other action taken or not taken pursuant to the provisions of this Declaration.
- 4.04 Partial Invalidity: If any portion of this Declaration is declared illegal, invalid, or unenforceable by law or court order, such action shall not affect the validity of any other provision hereof. Failure to enforce any one or more provisions hereof shall not constitute a waiver thereof as to future enforcement and shall not serve to invalidate any other provision of this Declaration.
- 4.05. Duration: These covenants, conditions, easements and restrictions shall run with the land and shall be binding upon and against the Property for a period of twenty-five (25) years from the date of recordation, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then owners of seventy-five percent (75%) or more of the Property (by Lot) has been recorded agreeing to change said covenants in whole or in part. No such agreement to change shall be effective unless made and recorded within three (3) months immediately prior to the date the covenants otherwise would be automatically extended.

4.06 Amendment:

- a. This Declaration may be amended by Declarant so long as Declarant holds a majority of the votes of the Association. No amendment by Declarant shall be effective until

there has been recorded in the Official Records of Williamson County, Texas, an instrument executed and acknowledged by Declarant in setting forth the amendment and executed and acknowledged by the President of the Association certifying that Declarant had the requisite number of votes.

- b. In addition to the method provided in paragraph 4.06(a.), this Declaration may be amended by the recording in the Official Records of Williamson County, Texas, of an instrument executed and acknowledged by the President of the Association setting forth the amendment and certifying that such amendment has been approved by owners entitled to cast at least eighty percent (80%) of the number of votes entitled to be cast, pursuant to paragraph 2.03.

4.07 Assignment of Declarant: Notwithstanding anything in this Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights and duties under this Declaration to any other person or entity and may permit the participation, in whole or in part, by any other person or entity in any of its privileges, exemptions, rights and duties hereunder. Such assignment shall be evidenced by a written instrument, executed by Declarant and the assignee, and recorded in the Official Records of Williamson County, Texas. In the event of any partial assignment by Declarant of any of its privileges, exemptions, rights and duties under this Declaration, Declarant shall continue to remain responsible and liable for all its obligations and duties under this Declaration until such time as Declarant has completed a full assignment of all of its privileges, exemptions, rights and duties under this Declaration to any other person or entity.

4.08 No Warranty of Enforceability: While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms or provisions. Any owner acquiring a Lot in reliance on one or more of such restrictive covenants, terms or provisions shall assume all risks of the validity and enforceability thereof and by acquiring the Lot, agrees to hold Declarant or its agents harmless therefrom.

4.09 Interpretation: The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the development and operation of the Subdivision, and of promoting and effectuating the fundamental concepts of the Subdivision set forth in this Declaration. This Declaration shall be construed and governed under the laws of the State of Texas.

4.10 Exemption of Declarant; Utility Easements:

- a. Notwithstanding anything in this Declaration to the contrary, neither Declarant nor any of Declarant's activities shall in any way be subject to the control of, or under the jurisdiction of the Board, the Association or the Committee. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant to excavate and grade, to construct and alter drainage

patterns and facilities, to construct any and all other types of improvements, sales and leasing offices and similar facilities, and to post signs incidental to construction, sales and leasing anywhere within the Property.

- b. Declarant reserves the right to locate, construct, erect and maintain, or cause to be located, constructed, erected and maintained in and on any areas owned by Declarant, pipelines, conduits, wires and any improvements relating to a public utility function with the right of access to the same at any time for the purposes of repair and maintenance.
- 4.11 Water Pollution Abatement Plan: A portion of the Subdivision is over the Edwards Aquifer Recharge Zone and is subject to a Water Pollution Abatement Plan approved by the Texas Commission on Environmental Quality, on January 6, 2005 and recorded as Document No. 2005001629 in the Official Public Records of Williamson County, Texas.
- 4.12 Private Roadways: All roadways, drainage structures and related appurtenances within the Subdivision ("Roads") shall be maintained by the Association in perpetuity. The Roads are owned by the Association, and Williamson County will not be responsible for any cost associated therewith. Further, an express easement is hereby granted across the roads and any adjoining common areas for the surface use of all governmental functions, vehicular and non-vehicular, including fire and police protection, electrical and water utilities and cooperatives, solid and other waster material pick-up, and any other purpose any governmental authority deems necessary.
- 4.13 Addition of Property to the Subdivision by Declarant: Declarant may, at Declarant's election, expand the Subdivision by adding property to the Subdivision. The addition of property to the Subdivision shall become effective on the date a supplemental declaration describing the additional property and confirming Declarant's intent to add such property to the Subdivision is executed by Declarant and filed of record in the Official Records of Williamson County, Texas. The supplemental declaration may modify the covenants, conditions, restrictions and easements with respect to the additional property. Upon the filing of the supplemental declaration, each Lot comprising the additional property shall be included within the definition of the Subdivision as set forth on Page 1 hereof. Declarant may add property to the Subdivision in this manner as often as deemed desirable by Declarant and shall be accomplished without the consent of any other party or entity.
- 4.14 Laws and Regulations: All owners of any Lots within the Subdivision shall at all times comply with all applicable laws, regulations and ordinances of municipal, county, state, federal or other governmental authorities.

IN WITNESS WHEREOF 452, LTD. has caused this document to be executed by its duly authorized officer this 24th day of FEBRUARY, 2005.

452, LTD., a Texas limited partnership

BY: COTTONWOOD ENTERPRISES, INC.
a Texas corporation, General Partner

BY: Rex D. Bohls
REX D. BOHLS, President

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me this 24th day of FEBRUARY, 2005, by REX D. BOHLS, President of COTTONWOOD ENTERPRISES, INC., a Texas corporation, on behalf of said corporation, as General Partner of 452, LTD., a Texas limited partnership.



Stephanie Perkins
NOTARY PUBLIC, STATE OF TEXAS

AFTER RECORDING RETURN TO:

① 452, LTD.
1301 SOUTH I.H. 35, SUITE 200
AUSTIN, TX 78741-1169

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS 2005014178

Nancy E. Rister

02/25/2005 03:52 PM

DVITEK \$44.00

NANCY E. RISTER, COUNTY CLERK
WILLIAMSON COUNTY, TEXAS

Unofficial Document