

DECLARATION OF ADDITIONAL COVENANTS AND RESTRICTIONS OF  
COUNTRY AIRE ESTATES VII plat 4808

THIS DECLARATION made this 20<sup>th</sup> day of June, 1991, by the undersigned, being the requisite number of owners of lots within COUNTRY AIRE ESTATES VII, a subdivision to the City of Broken Arrow, Tulsa County, State of Oklahoma, to properly amend the existing Covenants and Restrictions contained in the original plat of such addition, sometimes all of said parties to this Declaration being referred to collectively herein as "DECLARANT" or "DECLARANTS."

WITNESSETH:

WHEREAS, Declarants are the owners of certain real property in Tulsa County, State of Oklahoma, described as follows:

The lots designated by each respective declarant shown in the execution hereof each of which is in COUNTRY AIRE ESTATES VII, a subdivision to the City of Broken Arrow, Tulsa County, State of Oklahoma, according to the recorded Plat thereof, which are hereinafter referred to as "COUNTRY AIRE ESTATES VII" or the "PROPERTIES."

WHEREAS, Declarant intends to impose upon the property above described certain additional covenants and restrictions as hereinafter set forth.

THEREFORE, Declarant hereby declares that the properties comprising COUNTRY AIRE ESTATES VII shall be held, sold and conveyed subject to the following covenants and restrictions, which are for the purpose of protecting the value and desirability of COUNTRY AIRE ESTATES VII, and which shall be covenants running with the land, and which shall be binding on all persons having any right, title or interest in the properties comprising COUNTRY AIRE ESTATES VII, their heirs, successors and assigns, and shall inure to the benefit of each owner of a single-family lot as above described.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to COUNTRY AIRE ESTATES VII HOMEOWNERS ASSOCIATION, INC., its successors and

assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the properties, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to the real property above described, and such annexation and additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Areas" shall mean all real property maintained by the Association for the common use and enjoyment of the owners, and shall include but shall not be limited to the following:

The entrance to the Addition which has been landscaped and has a sprinkler system.

Section 5. "Lot" shall mean and refer to any single-family lot shown upon any recorded subdivision plat of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to the parties to this Declaration, their heirs, personal representatives, successors and assigns, and any such successors or assigns which acquire title to any of the lots within COUNTRY AIRE ESTATES VII.

## ARTICLE II

### PROPERTY RIGHTS AND OBLIGATIONS

Section 1. Owners' Obligations: Every owner of each lot shall have a right and obligation to maintain the entrance of the Addition, including such plants, trees and landscaping as shall be placed thereon and such obligations shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable fees for the maintenance of any landscaping and sprinkler system situated upon the entrance area;
- (b) the right of the Association to suspend the voting rights of an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations; and
- (c) the right of the Association to dedicate or

transfer all or any part of the obligations herein to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association and by the governmental agency.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. Members shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any Lot.

### ARTICLE IV

#### COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments: Each owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual maintenance assessments; and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments: The assessments levied by the Association shall be used exclusively for the improvement and maintenance of the entrance area of the Addition and the facilities thereon situated.

Section 3. Maximum Annual Assessment: The maximum annual assessment shall be Twelve Dollars (\$12.00) per Lot; PROVIDED, HOWEVER, the Board of Directors may increase each year, subsequent to the initial assessment year, the maximum assessment by the percentage increase, if any, of the Consumer Price Index occurring over the twelve (12) months ending sixty (60) days prior to the current assessment period, or five percent (5%), whichever

is greater. "Consumer Price Index" shall mean the index published by the U.S. Department of Labor for the area including Tulsa, Oklahoma. Increases in the maximum annual assessment greater than those above provided for shall require the assent of two-thirds (2/3) of the eligible votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum amount.

Section 4. Special Assessments for Capital Improvements: In addition to the annual assessments authorized above, the Association may levy, in any assessment year, 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 upon the entrance area, including fixtures and personal property related thereto, PROVIDED THAT any such assessment shall have the assent of two-thirds (2/3) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4: Written notice of any meeting for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. In the event two-thirds (2/3) of the membership do not assent at the time of the meeting, members not present may, within thirty (30) days thereafter, give assent by delivery of written assent to the Secretary of the Association, and such assents shall be deemed votes cast at the meeting.

Section 6. Uniform Rate of Assessment: Both annual and special assessments shall be fixed at a uniform rate for each Lot; PROVIDED, HOWEVER, the first annual assessment for each Lot shall be adjusted based on the number of months remaining in the calendar year.

Section 7. Commencement of Annual Assessments: The annual assessments for each Lot shall commence effective on the 1st day of January, 1992. Notwithstanding the foregoing provisions, the Declarant may defer the initial commencement of assessments by the recording of an instrument establishing a deferred commencement date and setting forth the Declarant's assumption of the obligation and cost of maintenance of the entrance area until the deferred date of commencement of assessments.

Section 8.      **Establishment of the Amount of Assessment:** The Board of Directors of the Association shall fix the amount of the annual assessment at least thirty (30) days prior to the commencement date, or at least thirty (30) days prior to the expiration of a deferred commencement period, and shall fix the amount of subsequent assessments against each Lot at least thirty (30) days in advance of each annual assessment period. The due dates for payment of the annual assessments shall be established by the Board of Directors, and the Board of Directors may provide for the payment of the annual assessments on a monthly basis, semi-annual basis, or annual basis. Written notice of the annual assessment and the due dates for payment shall be sent to each Owner. The omission or failure of the Board of Directors to timely fix the annual assessment or to give notice thereof shall not be deemed a waiver or release of any Owner from the obligation to pay the assessment when fixed, and notice thereof given.

Section 9.      **Certificate of Assessment:** The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly-executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 10.      **Nonpayment of Assessments - Remedies of the Association:** An assessment which is not paid when due shall be delinquent and shall constitute a lien on the Lot against which the assessment is made. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at a rate of interest per annum as set by the Board of Directors from time to time, but not to exceed the maximum rate of interest allowed by law, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose its lien against the property, or both, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of the assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, or abandonment of his Lot. Assessment liens shall continue for a period of one (1) year from the date of delinquency; PROVIDED, that if, within such period, judicial proceedings shall have been instituted to enforce the lien in a court in Tulsa County, Oklahoma, having jurisdiction, then the lien shall continue until the termination of the judicial proceeding and the sale of such Lot pursuant to execution of judgment.

Section 11.      **Subordination of the Lien to Mortgages:** The lien of the assessments provide for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien; PROVIDED, HOWEVER, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assess-

ments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve the Lot from the lien for assessments thereafter becoming due.

#### ARTICLE V

#### GENERAL PROVISIONS

Section 1. **Conflicting Provisions:** To the extent that this Declaration is in conflict with any provision of the Deed of Dedication and Declaration of Covenants which accompanied the recorded Plat of COUNTRY AIRE ESTATES VII, or any amendment thereof, the provisions of this Declaration shall control.

Section 2. **Enforcement:** The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all easements, restrictions and covenants now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall not be deemed a waiver of the right to do so thereafter. In any judicial action to enforce the covenants or restrictions established by the Declaration or amendments thereto; or to recover damages for the breach thereof, the prevailing party shall be entitled to receive his or its reasonable attorney's fees and costs and expenses incurred in such action.

Section 3. **Severability:** Invalidation of any one of the provisions of this Declaration by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

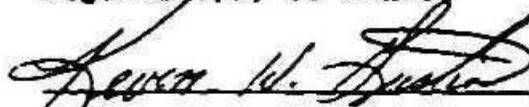
Section 4. **Term and Amendment:** The restrictions and covenants of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended at any time and from time to time, whether during or after the first twenty (20) year period by an instrument signed by the owners of more than seventy-five percent (75%) of the Lots. An instrument amending this Declaration shall be recorded in the real estate records of the office of the County Clerk of Tulsa County, Oklahoma, and shall be effective from and after the date of recording.

IN WITNESS WHEREOF, the Declarants have executed this instrument effective the day and year set out above.

Lots in Country Aire Estates  
VII owned

Lot 1 Block 5

Signature(s) of Owners

  
Kevin W. Huster  
Kathy A. Huster