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COVENANTS AND RESTRICTIONS
ON AND FOR
THE WOODS UNIT I RESIDENTIAL DEVELOPMENT 1532 AUG 17 PM 3:55

FILED
H. J. TYLER
COUNTY CLERK

SMITH COUNTY TEXAS
BY *Betty Porter*
DEPUTY

THE STATE OF TEXAS))
)) KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF SMITH))

WHEREAS, KIRKLAND-HAMMOND DEVELOPMENT CORPORATION, hereinafter referred to as "Developer", is the owner and developer of The Woods Unit I, an addition to the City of Tyler, according to the map and plat thereof originally filed of record in Volume 10, Page 156 of the Plat Records, Smith County, Texas and any further revision, supplements or additions thereto, incorporated herein by reference for all purposes; and

WHEREAS, for the purpose of creating and carrying out a uniform plan for the improvement and development of The Woods Unit I as a high quality, first-class residential subdivision, Developer desires to implement the following restrictions, conditions and use limitations;

NOW, THEREFORE, Developer, in order to create and carrying out a uniform plan for the development, improvement and use of lots within The Woods Unit I, and for the benefit of the present and future owners of said lots, does hereby adopt and establish the following covenants, conditions and restrictions which shall be applicable to the entire The Woods Unit I residential subdivision and govern the improvement, development and use of and for all the lots within The Woods Unit I residential subdivision (hereinafter referred to as "the subdivision"):

1. Scope of Restrictions. The covenants, conditions and restrictions hereinafter set forth shall constitute covenants running with the land and persons or entities acquiring property in the subdivision, whether by purchase, descent, devise, gift or otherwise, and each person or entity, by the acceptance of title to any lot within the subdivision, shall thereby agree and covenant to abide by and perform the covenants, conditions and restrictions as set forth herein.

2. Residential Lots. All lots in the subdivision shall be used, known and described as residential lots. No building or structure shall be erected, altered, placed or permitted to remain on any residential lot other than a single-family residential dwelling and, if any, its customary and usual accessory structures (unless prohibited elsewhere herein). No building or structure on any residential lot shall exceed two (2) stories in height.

3. Minimum Floor Space. Each one (1) story dwelling constructed on any residential lot in the subdivision shall contain a minimum of one thousand seven hundred fifty (1,750) square feet of covered floor area, exclusive of all porches, garages or breezeways attached to the main dwelling. Each one and one-half (1-1/2) story or two (2) story dwelling constructed on any residential lot in the subdivision shall

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contain a minimum of two thousand (2,000) square feet of covered floor area, exclusive of all porches, garages or breezeways attached to the main dwelling. Notwithstanding any provisions to the contrary, any residence constructed on Lots 1-27, inclusive, Block 1539-C as shown on the above-referenced plat shall contain a minimum of 2,000 square feet, whether such is a single story or multiple story dwelling.

4. Garages. Each single-family residential dwelling erected on any lot within the subdivision shall provide garage space for a minimum of two (2) conventional automobiles. Each garage shall open to the rear or side of the residential lot so as not to directly face the residential street or adjacent common area, unless otherwise expressly permitted by the architectural control committee.

5. Setback Requirements. No building or structure of any type shall be erected on any residential lot in the subdivision nearer to the front property line than indicated by the minimum building setback line on the recorded plat of the subdivision. No building or structure shall be erected nearer to the side property line than: (i) a distance which is equal to ten percent (10%) of the width of the lot, or (ii) ten (10) feet, whichever is less. The lot width shall be measured at the front building line or at the midpoint of the lot, whichever is less. No part of any building or structure may be built any closer than twenty (20) feet from the rear property line. No portion of any structure, such as eaves or steps, shall encroach upon another residential lot.

6. Fences. No fence, wall or hedge shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line indicated on the recorded plat of the subdivision. No fence, wall or hedge shall exceed six (6) feet in height unless otherwise specifically required by the City of Tyler. All clothes lines or service facilities must be enclosed within fences, walls or landscaping so as not to be visible from the immediate residential street or adjacent common area. However, no clothes lines, service facilities, fences, walls or hedges shall be erected, placed or altered on any residential lot which borders the common area without the approval of the architectural control committee.

7. Signs. No sign or signs shall be displayed to the public view on any residential lot, except that: (i) any builder, during the applicable initial construction and sales period, may utilize one professional sign (of not more than eight (8) square feet in size) per lot for advertising and sales purposes; (ii) thereafter, a dignified "for sale" or "for rent" sign (of not more than nine (9) square feet in size) may be utilized by the owner of the respective residential lot for the applicable sale or rent situation.

8. Easements; Utilities. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded subdivision plat. Except as to special street lighting or other aerial facilities which may be required by the City of Tyler or may be required by the franchise of any utility company, no aerial utility facilities of any type (except meters, risers, service pedestals and other surface installations necessary to maintain or operate

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appropriate underground facilities) shall be erected or installed in the subdivision whether upon individual lots, easements, streets, or right-of-way including (but not limited to) any person owning or acquiring any part of the subdivision, and all utility service facilities, including (but not limited to) water, sewer, gas, electricity and telephone, shall be buried underground, under streets or utility easements (underground) to any structure located on any part of the subdivision.

9. Temporary Structures and Vehicles. No temporary structure of any kind shall be erected or placed upon any lot in the subdivision. Temporary structures shall include, but not be limited to, any garage, servant's house or other improvement erected more than one hundred twenty (120) days prior to the completion of the main portion of the single-family dwelling. However, Developer or any other person or entity engaged in the sale of lots or in the construction of improvements thereon may maintain temporary sales or construction offices; provided such sales or construction offices are removed within thirty (30) days after completion of sales or construction, as the case may be.

Any truck, bus, boat, boat trailer, trailer, mobile home, campmobile, camper, or any vehicle other than a conventional automobile shall, if brought within the subdivision, be stored, placed or parked within the garage of the respective owner unless otherwise directed by the architectural control committee.

10. Garbage; Weeds. No residential lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. All garbage shall be kept in sanitary containers. Unless otherwise required by the City of Tyler, no rubbish, trash, or garbage receptacles may be placed on any lot nearer to any street than the minimum building setback line indicated on the recorded plat of the subdivision.

If, at any time, an owner of any residential lot shall fail to control weeds, grass and/or other unsightly growth, Developer or its assigns, or any other lot owner within the subdivision shall have the authority and right to go onto said lot for the purpose of mowing and cleaning said lot and shall have the authority and right to assess and collect from the owner of said lot, a reasonable sum for mowing or cleaning said lot on each respective occasion of such mowing and cleaning. The assessments, together with such interest thereon and costs of collection thereof, shall be a charge on the land and shall be a continuing lien upon each lot against which each such assessment is made. Each such assessment, together with such interest thereof and cost of collection thereof, shall also be the continuing personal obligation of the person who was the owner of such lot at the time when the assessment occurred. Each and every owner of any lot within the subdivision, by the acceptance of a deed or other conveyance of such lot shall thereby covenant and agree to pay such assessments. The lien securing any such assessment shall be subordinate and inferior to the lien or any mortgage and any renewals or extensions thereof existing prior to the assessment date.

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11. Offensive Activities. No noxious or offensive activity shall be conducted on any residential lot nor shall anything be done thereon which is or may become an annoyance or nuisance to the subdivision or any portion thereof. No animals, livestock or poultry of any kind shall be raised, bred or kept on any residential lot, except dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for commercial purposes.

12. New Construction. All dwellings and structures erected on any residential lot in the subdivision shall be new construction. Old buildings may not be placed on any lot in the subdivision, even if they satisfy all other requirements. All roofs on such dwellings and structures shall be constructed from wooden shingles, composition shingles having a minimum weight of 300 pounds per square or other material expressly approved by the Architectural Control Committee.

13. Architectural Control Committee. The Architectural Control Committee, hereinafter called "the Committee", shall be composed of two (2) individuals selected and appointed by Developer. The initial members, each of whom shall serve until his successor is named as provided herein, are: John H. Hammond and Patrick B. Kirkland, all having the business address of 3700 Calloway Road, Tyler, Texas. The Committee shall function as the representative of the owners of the subdivision lots for the purposes herein set forth as well as for all other purposes consistent with the creation and preservation of a first-class residential subdivision.

The Committee may designate a representative to act for it. In the event of the death or resignation of any member of the Committee, the remaining member(s) shall have full authority to designate and appoint a successor. Each member of the Committee, or its designated representative, shall neither be entitled to any compensation for services performed hereunder nor be liable for claim, causes of action or damages (except where occasioned by gross negligence or arbitrary and capricious conduct) arising out of services performed pursuant to this covenant. The record owners of seventy percent (70%) of the subdivision lots shall at any time have the power to change membership of the Committee, to withdraw or add powers and duties from or to the Committee, or to restore the powers and duties of the Committee. Such action shall be effective upon recordation of a written instrument properly reflecting same.

No building, structure or improvement of any nature shall be erected, placed or altered on any lot until the construction plans and specifications and a plot plan showing the location of such building, structure or improvement have been submitted to and approved in writing by the Committee as to: (i) quality of workmanship and materials, (ii) conformity and harmony of external design with existing structures, (iii) location with respect to topography and finished grade elevation, and (iv) the other standards set forth within this instrument.

Final plans and specifications shall be submitted in duplicate to the Committee for approval or disapproval. At such time as the plans and specifications meet the approval of the Committee, one complete set of plans and specifications will be retained by the Committee, and the other complete set of plans will be marked "approved", signed by a member of the Committee, and returned to the lot owner. If found not to be in compliance with these covenants and restrictions, one set

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of such plans and specifications shall be returned marked "disapproved", accompanied by a reasonable statement of items found not to comply with these covenants and restrictions. Any modification or change to the approved set of plans and specifications must again be submitted to the Committee for its inspection and approval. The Committee's approval or disapproval as required in these covenants shall be in writing. If the Committee, or its designated representatives, fails to approve or disapprove such plans and specifications within thirty (30) days after they have been submitted to it, and if no suit to enjoin the construction is commenced prior to substantial completion of such construction, then Committee approval shall be presumed.

The Committee may from time to time publish and promulgate architectural standards bulletins; such bulletins supplement these covenants and restrictions and are incorporated herein by reference. The Committee shall have the authority to make final decisions in interpreting the general intent, effect and purpose of these restrictions.

14. Construction. Any individual or entity owning not more than one (1) residential lot in the subdivision must complete the foundation of an approved building or structure on the respective residential lot on or before the expiration of two (2) years time following the date of the purchase of the residential lot. Any individual or entity owning two (2) or more residential lots in the subdivision must complete the foundation of an approved building or structure on each residential lot owned on or before the expiration of three (3) years time following the date of the purchase of each residential lot owned. At the expiration of the time periods herein prescribed, Developer shall have the option to repurchase any lot held by such owner upon which the required construction has not been completed. The price to be paid for each lot repurchased shall be equal to the original purchase price paid by owner to Developer.

15. Homeowners Association and Assessments. Each and every owner of any lot within the subdivision, by the acceptance of a deed or other conveyance of such lot, agrees to become a member of the homeowners association to be established for the subdivision and further covenants and agrees that he will bear and pay such portion of the specific expenses required and expended by said homeowners association, its successors and assigns for the maintenance of the common areas including but not limited to parks and lakes, and other expenses or assessments as are deemed necessary by said association. Further, by the acceptance and retention of title to any lot or lots, each grantee, on behalf of himself, his heirs and assigns, does hereby covenant and agree that said homeowners association, its successors and assigns, shall have a lien upon the subject lot or lots second only to liens for taxes and any duly recorded mortgage or mortgages placed upon the property prior to the due date of any assessment for such expenses to secure the payment of the aforementioned expenses, including court costs and reasonable attorney's fees incurred in connection with the collection of same.

16. Enforcement. Enforcement of these covenants and restrictions shall be by a proceeding or proceedings at law or in equity, initiated by a person or persons owning any residential lot in the subdivision or by any member of the

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Architectural Control Committee, or by the City of Tyler, against any person or persons violating or attempting to violate any covenant or restriction herein contained, either to restrain violation or to recover damages for the violation, or both, or to obtain such other relief for such violations as then may be legally available. The Architectural Control Committee, and each of its appointed members, shall have an election and right, but not an obligation on or duty, to enforce these covenants and restrictions by a proceeding or proceedings at law or in equity.

17. Validity. Violation of or failure to comply with these covenants and restrictions shall not affect the validity of any mortgage, bona fide lien or other similar security instrument which may be then existing on any residential lot in the subdivision. Invalidation of any one of these covenants and restrictions, or any portion thereof, by a judgment or court order shall not affect any of the other provisions or covenants herein contained, which shall remain in full force and effect. In the event any portion of these covenants and restrictions conflict with mandatory provisions of any ordinance or regulation promulgated by the City of Tyler, then such municipal requirement shall control. Any deed or legal instrument (except deeds of trust, mortgages or other similar security agreements) purporting to convey, transfer or assign any interest in and land within the subdivision shall contain appropriate language to expressly subject the land within such conveyance, transfer or assignment to all the covenants and restrictions set forth herein. Words of any gender used herein shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise. The captions used in connection with paragraphs herein are for convenience only and shall not be deemed to construe or limit the meaning of the language herein.

18. Amendment. At any time the owners of the legal title to seventy percent (70%) of the lots within the subdivision (as shown by the records of Smith County, Texas) may amend the covenants, conditions and restrictions set forth herein by filing an instrument containing such amendment in the Office of the County Clerk of Smith County, Texas.

19. Duration. These covenants, conditions and restrictions are to run with the land and shall be binding on all parties and all persons claiming title in the subdivision until March 1, 2002. At the expiration of the primary term, the covenants, conditions and restrictions herein shall automatically be extended for successive periods of five (5) years unless an instrument signed by a majority of the owners of the lots in the subdivision in whole or in part.

IN WITNESS WHEREOF, Developer has caused this instrument to be executed this the 17th day of August, 1982.

KIRKLAND-HAMMOND DEVELOPMENT
CORPORATION

By: 
John H. Hammond, President

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STATE OF TEXAS))
COUNTY OF SMITH))

This instrument was acknowledged before me on this the
17th day of August, 1982, by JOHN H. HAMMOND,
President of KIRKLAND-HAMMOND DEVELOPMENT CORPORATION a Texas
corporation, on behalf of said corporation.



Pat Welch
Notary Public
My Commission Expires 6/12/85

STATE OF TEXAS COUNTY OF SMITH
I hereby certify that this instrument was
filed on the date and time signified herein
by me and was duly recorded in the volume
and page of the named record of Smith
County, Texas.



AUG 18 1982

MARY MORRIS
COUNTY CLERK, Smith County, Texas
Mary Morris

Original Return to:
Kirkland-Hammond Development Corp.
3700 Calloway Road
Tyler, TX 75901

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7181

**CORRECTED
COVENANTS AND RESTRICTIONS
ON AND FOR
THE WOODS UNIT I RESIDENTIAL DEVELOPMENT**

1360

FILED
MARY MORRIS
COUNTY CLERK
MAR 23 PM 2:57
SMITH COUNTY, TEXAS
BY *[Signature]*
DEPUTY

THE STATE OF TEXAS))
))
COUNTY OF SMITH))
))

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, KIRKLAND-HAMMOND DEVELOPMENT CORPORATION, herein-after referred to as "Developer", is the owner and developer of the Woods Unit I, an addition to the City of Tyler, according to the map and plat thereof originally filed of record in Volume 10, Page 156 of the Plat Records, Smith County, Texas and any further revision, supplements or additions thereto, incorporated herein by reference for all purposes; and

WHEREAS, for the purpose of creating and carrying out a uniform plan for the improvement and development of The Woods Unit I as a high quality, first-class residential subdivision, Developer desires to implement the following restrictions, conditions and use limitations;

NOW, THEREFORE, Developer, in order to create and carrying out a uniform plan for The Woods Unit I, and for the benefit of the present and future owners of said lots, does hereby adopt and establish the following covenants, conditions and restrictions which shall be applicable to the entire The Woods Unit I residential subdivision and govern the improvement, development and use of and for all the lots within The Woods Unit I residential subdivision (hereinafter referred to as "the subdivision"):

1. Scope of Restrictions. The covenants, conditions and restrictions hereinafter set forth shall constitute covenants running with the land and persons or entities acquiring property in the subdivision, whether by purchase, descent, devise, gift or otherwise, and each person or entity, by the acceptance of title to any lot within the subdivision, shall thereby agree and covenant to abide by and perform the covenants, conditions and restrictions as set forth herein.

2. Residential Lots. All lots in the subdivision shall be used, known and described as residential lots. No building or structure shall be erected, altered, placed or permitted to remain on any residential lot other than a single-family residential dwelling and, if any, its customary and usual accessory structures (unless prohibited elsewhere herein). No building or structure on any residential lot shall exceed two (2) stories in height.

3. Minimum Floor Space. Each one (1) story dwelling constructed on any residential lot in the subdivision shall contain a minimum of one thousand seven hundred fifty (1,750) square feet of covered floor area, exclusive of all porches, garages or breezeways attached to the main dwelling. Each one and one-half (1-1/2) story or two (2) story dwelling constructed on any residential lot in the subdivision shall contain a minimum of two thousand (2,000) square feet of covered floor area, exclusive of all porches, garages or breezeways attached to the main dwelling. Notwithstanding any provisions to the contrary, any residence constructed on Lots 1-27, inclusive, Block 1539-C

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as shown on the above-referenced plat shall contain a minimum of 2,880 square feet, whether such is a single story or multiple story dwelling.

4. Garages Each single-family residential dwelling erected on any lot within the subdivision shall provide garage space for a minimum of two (2) conventional automobiles. Each garage shall open to the rear or side of the residential lot so as not to directly face the residential street or adjacent common area, unless otherwise expressly permitted by the Architectural Control Committee. Driveways shall be constructed of concrete or other material expressly approved by the Architectural Control Committee.

5. Setback Requirements. No building or structure of any type shall be erected on any residential lot in the subdivision nearer to the front property line than indicated by the minimum building setback line on the recorded plat of the subdivision. No building or structure shall be erected nearer to the side property line than: (i) a distance which is equal to ten percent (10%) of the width of the lot, or (ii) ten (10) feet, whichever is less. The lot width shall be measured at the front building line or at the midpoint of the lot, whichever is less. No part of any building or structure may be built any closer than twenty (20) feet from the rear property line. No portion of any structure, such as eaves or steps, shall encroach upon another residential lot.

6. Fences. No fence, wall or hedge shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line indicated on the recorded plat of the subdivision. No fence, wall or hedge shall exceed six (6) feet in height unless otherwise specifically required by the City of Tyler. All clothes lines or service facilities must be enclosed within fences, walls or landscaping so as not to be visible from the immediate residential street or adjacent common area. All fences must be of wood construction or other material expressly approved by the Architectural Control Committee. However, no clothes lines, service facilities, fences walls or hedges shall be erected, placed or altered on any residential lot which borders the common area without the approval of the Architectural Control Committee.

7. Signs. No sign or signs shall be displayed to the public view on any residential lot, except that: (i) any builder, during the applicable initial construction and sales period, may utilize one professional sign (of not more than eight (8) square feet in size) per lot for advertising and sales purposes; (ii) thereafter, a dignified "for sale" or "for rent" sign (of not more than nine (9) square feet in size) may be utilized by the owner of the respective residential lot for the applicable sale or rent situation.

8. Easements; Utilities Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded subdivision plat. Except as to special street lighting or other aerial facilities which may be required by the City of Tyler or may be required by the franchise of any utility company, no aerial utility facilities of any type (except meters, risers, service pedestals and other surface installations necessary to maintain or operate appropriate underground facilities) shall be erected or installed in the subdivision whether upon individual lots, easements, streets, or right-of-way including (but not limited to) any person owning or acquiring any

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part of the subdivision, and all utility service facilities, including (but not limited to) water, sewer, gas, electricity and telephone, shall be buried underground, under streets or utility easements (underground) to any structure located on any part of the subdivision.

9. Temporary Structures and Vehicles. No temporary structure of any kind shall be erected or placed upon any lot in the subdivision. Temporary structures shall include, but not be limited to, any garage, servant's house or other improvement erected more than one hundred twenty (120) days prior to the completion of the main portion of the single-family dwelling. However, Developer or any other person or entity engaged in the sale of lots or in the construction of improvements thereon may maintain temporary sales or construction offices; provided such sales or construction offices are removed within thirty (30) days after completion of sales or construction, as the case may be.

Any truck, bus, boat, boat trailer, trailer, mobile home, campmobile, camper, or any vehicle other than a conventional automobile shall, if brought within the subdivision, be stored, placed or parked within the garage of the respective owner unless otherwise directed by the Architectural Control Committee.

10. Garbage, Weeds. No residential lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. All garbage shall be kept in sanitary containers. Unless otherwise required by the City of Tyler, no rubbish, trash, or garbage receptacles may be placed on any lot nearer to any street than the minimum building setback line indicated on the recorded plat of the subdivision.

If, at any time, an owner of any residential lot shall fail to control weeds, grass and/or other unsightly growth, Developer or its assigns, or any other lot owner within the subdivision shall have the authority and right to go onto said lot for the purpose of mowing and cleaning said lot and shall have the authority and right to assess and collect from the owner of said lot, a reasonable sum for mowing or cleaning said lot on each respective occasion of such mowing and cleaning. The assessments, together with such interest thereon and costs of collection thereof, shall be a charge on the land and shall be a continuing lien upon each lot against which each such assessment is made. Each such assessment, together with such interest thereof and cost of collection thereof, shall also be the continuing personal obligation of the person who was the owner of such lot at the time when the assessment occurred. Each and every owner of any lot within the subdivision, by the acceptance of a deed or other conveyance of such lot shall thereby covenant and agree to pay such assessments. The lien securing any such assessment shall be subordinate and inferior to the lien or any mortgage and any renewals or extensions thereof existing prior to the assessment date.

11. Offensive Activities. No noxious or offensive activity shall be conducted on any residential lot nor shall anything be done thereon which is or may become an annoyance or nuisance to the subdivision or any portion thereof. No animals, livestock or poultry of any kind shall be raised, bred or kept on any residential lot, except dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for commercial purposes.

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12. **New Construction.** All dwellings and structures erected on any residential lot in the subdivision shall be new construction. Old buildings may not be placed on any lot in the subdivision, even if they satisfy all other requirements. All roofs on such dwellings and structures shall be constructed from wooden shingles, composition shingles having a minimum weight of 300 pounds per square or other material expressly approved by the Architectural Control Committee. All mailboxes must be enclosed with masonry or other material expressly approved by the Architectural Control Committee.

13. **Architectural Control Committee.** The Architectural Control Committee, hereinafter called "the Committee", shall be composed of two (2) individuals selected and appointed by Developer. The initial members, each of whom shall serve until his successor is named as provided herein, are John H. Hammond and Patrick B. Kirkland, all having the business address of 3700 Lazy Creek Drive, Tyler, Texas. The Committee shall function as the representative of the owners of the subdivision lots for the purpose herein set forth as well as for all other purposes consistent with the creation and preservation of a first-class residential subdivision.

The Committee may designate a representative to act for it. In the event of the death or resignation of any member of the Committee the remaining member(s) shall have full authority to designate and appoint a successor. Each member of the Committee, or its designated representative, shall neither be entitled to any compensation for services performed hereunder nor be liable for claim, causes of action or damages (except where occasioned by gross negligence or arbitrary and capricious conduct) arising out of services performed pursuant to this covenant. The record owners of seventy percent (70%) of the subdivision lots shall at any time have the power to change membership of the Committee, to withdraw or add powers and duties from or to the Committee, or to restore the powers and duties of the Committee. Such action shall be effective upon recordation of a written instrument properly reflecting same.

No building, structure or improvement of any nature shall be erected, placed or altered on any lot until the construction plans and specification and a plot plan showing the location of such building structure or improvement have been submitted to and approved in writing by the Committee as to: (i) quality of workmanship and materials, (ii) conformity and harmony of external design with existing structures, (iii) location with respect to topography and finished grade elevation, and (iv) the other standards set forth within this instrument. Final plans and specifications shall be submitted in duplicate to the Committee for approval or disapproval. At such time as the plans and specifications meet the approval of the Committee, one complete set of plans and specifications will be retained by the Committee, and the other complete set of plans will be marked "approved", signed by a member of the Committee, and returned to the lot owner. If found not to be in compliance with these covenants and restrictions, one set of such plans and specifications shall be returned marked "disapproved", accompanied by a reasonable statement of items found not to comply with these covenants and restrictions. Any modification or change to the approved set of plans and specifications must again be submitted to the Committee for its inspection and approval. The Committee's approval or disapproval as required in these covenants shall be in writing. If the Committee, or its

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designated representatives, fails to approve or disapprove such plans and specifications within thirty (30) days after they have been submitted to it, and if no suit to enjoin the construction is commenced prior to substantial completion of such construction, then Committee approval shall be presumed.

The Committee may from time to time publish and promulgate architectural standards bulletins; such bulletins supplement these covenants and restrictions and are incorporated herein by reference. The Committee shall have the authority to make final decisions in interpreting the general intent, effect and purpose of these restrictions.

14. Construction. Any individual or entity owning not more than one (1) residential lot in the subdivision must complete the foundation of an approved building or structure on the respective residential lot on or before the expiration of two (2) years time following the date of the purchase of the residential lot. Any individual or entity owning two (2) or more residential lots in the subdivision must complete the foundation of an approved building or structure on each residential lot owned on or before the expiration of three (3) years time following the date of the purchase of each residential lot owned. At the expiration of the time periods herein prescribed, Developer shall have the option to repurchase any lot held by such owner upon which the required construction has not been completed. The price to be paid for each lot repurchased shall be equal to the original purchase price paid by owner to Developer.

15. Homeowners Association and Assessments. Each and every owner of any lot within the subdivision, by the acceptance of a deed or other conveyance of such lot, agrees to become a member of the Homeowners Association to be established for the subdivision and further covenants and agrees that he will bear and pay such portion of the specific expenses required and expended by said Homeowners Association, its successors and assigns for the maintenance of the common areas including but not limited to parks and lakes, and other expenses or assessments as are deemed necessary by said association. Further, by the acceptance and retention of title to any lot or lots, each grantee, on behalf of himself, his heirs and assigns, does hereby covenant and agree that said Homeowners Association, its successors and assigns, shall have a lien upon the subject lot or lots second only to liens for taxes and any duly recorded mortgage or mortgages placed upon the property prior to the due date of any assessment for such expenses to secure the payment of the aforementioned expenses, including court costs and reasonable attorney's fees incurred in connection with the collection of same.

16. Enforcement. Enforcement of these covenants and restrictions shall be by a proceeding or proceedings at law or in equity, initiated by a person or persons owning any residential lot in the subdivision or by any member of the Architectural Control Committee, or by the City of Tyler, against any person or persons violating or attempting to violate any covenant or restriction herein contained, either to restrain violation or to recover damages for the violation, or both, or to obtain such other relief for such violations as then may be legally available. The Architectural Control Committee, and each of its appointed members, shall have an election and right, but not an obligation on or duty, to enforce these covenants and restrictions by a proceeding or proceedings at law or in equity.

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17. Validity. Violation of or failure to comply with these covenants and restrictions shall not affect the validity of any mortgage, bona fide lien or other similar security instrument which may be then existing on any residential lot in the subdivision. Invalidation of any one of these covenants and restrictions, or any portion thereof, by a judgment or court order shall not affect any of the other provisions or covenants herein contained, which shall remain in full force and effect. In the event any portion of these covenants and restrictions conflict with mandatory provisions of any ordinance or regulation promulgated by the City of Tyler, then such municipal requirement shall control. Any deed or legal instrument (except deeds of trust, mortgages or other similar security agreements) purporting to convey, transfer or assign any interest in and land within the subdivision shall contain appropriate language to expressly subject the land within such conveyance, transfer or assignment to all the covenants and restrictions set forth herein. Words of any gender used herein shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise. The captions used in connection with paragraphs herein are for convenience only and shall not be deemed to construe or limit the meaning of language herein.

18. Amendment. At any time the owners of the legal title to seventy percent (70%) of the lots within the subdivision (as shown by the records of Smith County, Texas) may amend the covenants, conditions and restrictions set forth herein by filing an instrument containing such amendment in the Office of the County Clerk of Smith County, Texas.

19. Duration. These covenants, conditions and restrictions are to run with the land and shall be binding on all parties and all persons claiming title in the subdivision until March 1, 2002. At the expiration of the primary term, the covenants, conditions and restrictions herein shall automatically be extended for successive periods of five (5) years unless an instrument providing otherwise is signed by a majority of the owners of the lots in the subdivision in whole or in part.

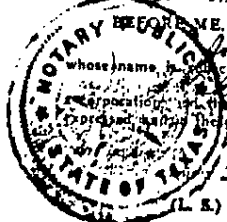
IN WITNESS WHEREOF, Developer has caused this instrument to be executed this the 28th day of February, 1982.

KIRKLAND-HAMMOND DEVELOPMENT CORPORATION

By: John H. Hammond
John H. Hammond, President

CORPORATION ACKNOWLEDGMENT

THE STATE OF TEXAS,
COUNTY OF Smith



BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared John H. Hammond, President, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Kirkland-Hammond Development Corporation, that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE,
this the 28th day of February, A. D. 1982

Notary Public in and for Smith County, Texas

STATE OF TEXAS
COUNTY OF SMITH
I hereby certify that this instrument was filed on the 28th day of February 1982 by me and was duly recorded in the volume and page of the public records of Smith County, Texas.



MAR 4 1983

MARY MORRIS
COUNTY CLERK, Smith County, Texas

By: John H. Hammond

VOL 2031 PAGE 207

CORRECTED
COVENANTS AND RESTRICTIONS
ON AND FOR
THE WOODS UNIT I RESIDENTIAL DEVELOPMENT

34889

THE STATE OF TEXAS)
)
COUNTY OF SMITH) (KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, KIRKLAND-HAMMOND DEVELOPMENT CORPORATION, hereinafter referred to as "Developer", is the owner and developer of The Woods Unit I, an addition to the City of Tyler, according to the map and plat thereof originally filed of record in Volume 10, Page 156 of the Plat Records, Smith County, Texas and any further revision, supplements or additions thereto, incorporated herein by reference for all purposes; and

WHEREAS, for the purpose of creating and carrying out a uniform plan for the improvement and development of The Woods Unit I as a high quality, first-class residential subdivision, Developer desires to implement the following restrictions, conditions and use limitations;

NOW, THEREFORE, Developer, in order to create and carrying out a uniform plan for the development, improvement and use of lots within The Woods Unit I, and for the benefit of the present and future owners of said lots, does hereby adopt and establish the following covenants, conditions and restrictions which shall be applicable to the entire The Woods Unit I residential subdivision and govern the improvement, development and use of and for all the lots within The Woods Unit I residential subdivision (hereinafter referred to as "the subdivision"):

1. Scope of Restrictions. The covenants, conditions and restrictions hereinafter set forth shall constitute covenants running with the land and persons or entities acquiring property in the subdivision, whether by purchase, descent, devise, gift or otherwise, and each person or entity, by the acceptance of title to any lot within the subdivision, shall thereby agree and covenant to abide by and perform the covenants, conditions and restrictions as set forth herein.

2. Residential Lots. All lots in the subdivision shall be used, known and described as residential lots. No building or structure shall be erected, altered, placed or permitted to remain on any residential lot other than a single-family residential dwelling and, if any, its customary and usual accessory structures (unless prohibited elsewhere herein). No building or structure on any residential lot shall exceed two (2) stories in height.

3. Minimum Floor Space. Each one (1) story dwelling constructed on any residential lot in the subdivision shall contain a minimum of one thousand seven hundred fifty (1,750) square feet of covered floor area, exclusive of all porches, garages or breezeways attached to the main dwelling. Each one and one-half (1-1/2) story or two (2) story dwelling constructed on any residential lot in the subdivision shall

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MARY HERRIS
COUNTY CLERK
SMITH COUNTY, TEXAS
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BY *[Signature]* DEPUTY

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contain a minimum of two thousand (2,000) square feet of covered floor area, exclusive of all porches, garages or breezeways attached to the main dwelling. Notwithstanding any provisions to the contrary, any residence constructed on Lots 1-27, inclusive, Block 1539-C as shown on the above-referenced plat shall contain a minimum of 2,000 square feet, whether such is a single story or multiple story dwelling.

4. Garages. Each single-family residential dwelling erected on any lot within the subdivision shall provide garage space for a minimum of two (2) conventional automobiles. Each garage shall open to the rear or side of the residential lot so as not to directly face the residential street or adjacent common area, unless otherwise expressly permitted by the architectural control committee.

5. Setback Requirements. No building or structure of any type shall be erected on any residential lot in the subdivision nearer to the front property line than indicated by the minimum building setback line on the recorded plat of the subdivision. No building or structure shall be erected nearer to the side property line than: (i) a distance which is equal to ten percent (10%) of the width of the lot, or (ii) ten (10) feet, whichever is less. The lot width shall be measured at the front building line or at the midpoint of the lot, whichever is less. No part of any building or structure may be built any closer than twenty (20) feet from the rear property line. No portion of any structure, such as eaves or steps, shall encroach upon another residential lot.

6. Fences. No fence, wall or hedge shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line indicated on the recorded plat of the subdivision. No fence, wall or hedge shall exceed six (6) feet in height unless otherwise specifically required by the City of Tyler. All clothes lines or service facilities must be enclosed within fences, walls or landscaping so as not to be visible from the immediate residential street or adjacent common area. However, no clothes lines, service facilities, fences, walls or hedges shall be erected, placed or altered on any residential lot which borders the common area without the approval of the architectural control committee.

7. Signs. No sign or signs shall be displayed to the public view on any residential lot, except that: (i) any builder, during the applicable initial construction and sales period, may utilize one professional sign (of not more than eight (8) square feet in size) per lot for advertising and sales purposes; (ii) thereafter, a dignified "for sale" or "for rent" sign (of not more than nine (9) square feet in size) may be utilized by the owner of the respective residential lot for the applicable sale or rent situation.

8. Easements; Utilities. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded subdivision plat. Except as to special street lighting or other aerial facilities which may be required by the City of Tyler or may be required by the franchise of any utility company, no aerial utility facilities of any type (except meters, risers, service pedestals and other surface installations necessary to maintain or operate

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appropriate underground facilities) shall be erected or installed in the subdivision whether upon individual lots, easements, streets, or right-of-way including (but not limited to) any person owning or acquiring any part of the subdivision, and all utility service facilities, including (but not limited to) water, sewer, gas, electricity and telephone, shall be buried underground, under streets or utility easements (underground) to any structure located on any part of the subdivision.

9. Temporary Structures and Vehicles. No temporary structure of any kind shall be erected or placed upon any lot in the subdivision. Temporary structures shall include, but not be limited to, any garage, servant's house or other improvement erected more than one hundred twenty (120) days prior to the completion of the main portion of the single-family dwelling. However, Developer or any other person or entity engaged in the sale of lots or in the construction of improvements thereon may maintain temporary sales or construction offices; provided such sales or construction offices are removed within thirty (30) days after completion of sales or construction, as the case may be.

Any truck, bus, boat, boat trailer, trailer, mobile home, campmobile, camper, or any vehicle other than a conventional automobile shall, if brought within the subdivision, be stored, placed or parked within the garage of the respective owner unless otherwise directed by the architectural control committee.

10. Garbage; Weeds. No residential lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. All garbage shall be kept in sanitary containers. Unless otherwise required by the City of Tyler, no rubbish, trash, or garbage receptacles may be placed on any lot nearer to any street than the minimum building setback line indicated on the recorded plat of the subdivision.

If, at any time, an owner of any residential lot shall fail to control weeds, grass and/or other unsightly growth, Developer or its assigns, or any other lot owner within the subdivision shall have the authority and right to go onto said lot for the purpose of mowing and cleaning said lot and shall have the authority and right to assess and collect from the owner of said lot, a reasonable sum for mowing or cleaning said lot on each respective occasion of such mowing and cleaning. The assessments, together with such interest thereon and costs of collection thereof, shall be a charge on the land and shall be a continuing lien upon each lot against which each such assessment is made. Each such assessment, together with such interest thereof and cost of collection thereof, shall also be the continuing personal obligation of the person who was the owner of such lot at the time when the assessment occurred. Each and every owner of any lot within the subdivision, by the acceptance of a deed or other conveyance of such lot shall thereby covenant and agree to pay such assessments. The lien securing any such assessment shall be subordinate and inferior to the lien or any mortgage and any renewals or extensions thereof existing prior to the assessment date.

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11. Offensive Activities. No noxious or offensive activity shall be conducted on any residential lot nor shall anything be done thereon which is or may become an annoyance or nuisance to the subdivision or any portion thereof. No animals, livestock or poultry of any kind shall be raised, bred or kept on any residential lot, except dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for commercial purposes.

12. New Construction. All dwellings and structures erected on any residential lot in the subdivision shall be new construction. Old buildings may not be placed on any lot in the subdivision, even if they satisfy all other requirements. All roofs on such dwellings and structures shall be constructed from wooden shingles, composition shingles having a minimum weight of 300 pounds per square or other material expressly approved by the Architectural Control Committee. All mailboxes must be enclosed with masonry or other material expressly approved by the Architectural Control Committee.

13. Architectural Control Committee. The Architectural Control Committee, hereinafter called "the Committee", shall be composed of two (2) individuals selected and appointed by Developer. The initial members, each of whom shall serve until his successor is named as provided herein, are John H. Hammond and Patrick B. Kirkland, all having the business address of 3700 Calloway Road, Tyler, Texas. The Committee shall function as the representative of the owners of the subdivision lots for the purposes herein set forth as well as for all other purposes consistent with the creation and preservation of a first-class residential subdivision.

The Committee may designate a representative to act for it. In the event of the death or resignation of any member of the Committee the remaining member(s) shall have full authority to designate and appoint a successor. Each member of the Committee, or its designated representative, shall neither be entitled to any compensation for services performed hereunder nor be liable for claim, causes of action or damages (except where occasioned by gross negligence or arbitrary and capricious conduct) arising out of services performed pursuant to this covenant. The record owners of seventy percent (70%) of the subdivision lots shall at any time have the power to change membership of the Committee, to withdraw or add powers and duties from or to the Committee, or to restore the powers and duties of the Committee. Such action shall be effective upon recordation of a written instrument properly reflecting same.

No building, structure or improvement of any nature shall be erected, placed or altered on any lot until the construction plans and specifications and a plot plan showing the location of such building structure or improvement have been submitted to and approved in writing by the Committee as to: (i) quality of workmanship and materials, (ii) conformity and harmony of external design with existing structures, (iii) location with respect to topography and finished grade elevation, and (iv) the other standards set forth within this instrument.

Final plans and specifications shall be submitted in duplicate to the Committee for approval or disapproval. At such time as the plans and specifications meet the approval of the Committee, one complete set of plans and specifications will be retained by the Committee, and the other complete set of plans will be marked "approved", signed by a member of the Committee, and returned to the lot owner. If found not to be in compliance with these covenants and restrictions, one set

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of such plans and specifications shall be returned marked "disapproved", accompanied by a reasonable statement of items found not to comply with these covenants and restrictions. Any modification or change to the approved set of plans and specifications must again be submitted to the Committee for its inspection and approval. The Committee's approval or disapproval as required in these covenants shall be in writing. If the Committee, or its designated representatives, fails to approve or disapprove such plans and specifications within thirty (30) days after they have been submitted to it, and if no suit to enjoin the construction is commenced prior to substantial completion of such construction, then Committee approval shall be presumed.

The Committee may from time to time publish and promulgate architectural standards bulletins; such bulletins supplement these covenants and restrictions and are incorporated herein by reference. The Committee shall have the authority to make final decisions in interpreting the general intent, effect and purpose of these restrictions.

14. Construction. Any individual or entity owning not more than one (1) residential lot in the subdivision must complete the foundation of an approved building or structure on the respective residential lot on or before the expiration of two (2) years time following the date of the purchase of the residential lot. Any individual or entity owning two (2) or more residential lots in the subdivision must complete the foundation of an approved building or structure on each residential lot owned on or before the expiration of three (3) years time following the date of the purchase of each residential lot owned. At the expiration of the time periods herein prescribed, Developer shall have the option to repurchase any lot held by such owner upon which the required construction has not been completed. The price to be paid for each lot repurchased shall be equal to the original purchase price paid by owner to Developer.

15. Homeowners Association and Assessments. Each and every owner of any lot within the subdivision, by the acceptance of a deed or other conveyance of such lot, agrees to become a member of the homeowners association to be established for the subdivision and further covenants and agrees that he will bear and pay such portion of the specific expenses required and expended by said homeowners association, its successors and assigns for the maintenance of the common areas including but not limited to parks and lakes, and other expenses or assessments as are deemed necessary by said association. Further, by the acceptance and retention of title to any lot or lots, each grantee, on behalf of himself, his heirs and assigns, does hereby covenant and agree that said homeowners association, its successors and assigns, shall have a lien upon the subject lot or lots second only to liens for taxes and any duly recorded mortgage or mortgages placed upon the property prior to the due date of any assessment for such expenses to secure the payment of the aforementioned expenses, including court costs and reasonable attorney's fees incurred in connection with the collection of same.

16. Enforcement. Enforcement of these covenants and restrictions shall be by a proceeding or proceedings at law or in equity, initiated by a person or persons owning any residential lot in the subdivision or by any member of the

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Architectural Control Committee, or by the City of Tyler, against any person or persons violating or attempting to violate any covenant or restriction herein contained, either to restrain violation or to recover damages for the violation, or both, or to obtain such other relief for such violations as then may be legally available. The Architectural Control Committee, and each of its appointed members, shall have an election and right, but not an obligation on or duty, to enforce these covenants and restrictions by a proceeding or proceedings at law or in equity.

17. Validity. Violation of or failure to comply with these covenants and restrictions shall not affect the validity of any mortgage, bona fide lien or other similar security instrument which may be then existing on any residential lot in the subdivision. Invalidation of any one of these covenants and restrictions, or any portion thereof, by a judgment or court order shall not affect any of the other provisions or covenants herein contained, which shall remain in full force and effect. In the event any portion of these covenants and restrictions conflict with mandatory provisions of any ordinance or regulation promulgated by the City of Tyler, then such municipal requirement shall control. Any deed or legal instrument (except deeds of trust, mortgages or other similar security agreements) purporting to convey, transfer or assign any interest in and land within the subdivision shall contain appropriate language to expressly subject the land within such conveyance, transfer or assignment to all the covenants and restrictions set forth herein. Words of any gender used herein shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise. The captions used in connection with paragraphs herein are for convenience only and shall not be deemed to construe or limit the meaning of the language herein.

18. Amendment. At any time the owners of the legal title to seventy percent (70%) of the lots within the subdivision (as shown by the records of Smith County, Texas) may amend the covenants, conditions and restrictions set forth herein by filing an instrument containing such amendment in the Office of the County Clerk of Smith County, Texas.

19. Duration. These covenants, conditions and restrictions are to run with the land and shall be binding on all parties and all persons claiming title in the subdivision until March 1, 2002. At the expiration of the primary term, the covenants, conditions and restrictions herein shall automatically be extended for successive periods of five (5) years unless an instrument signed by a majority of the owners of the lots in the subdivision in whole or in part.

IN WITNESS WHEREOF, Developer has caused this instrument to be executed this the 23rd day of September, 1982.

KIRKLAND-HAMMOND DEVELOPMENT
CORPORATION

By: John H. Hammond
John H. Hammond, President

STATE OF TEXAS))
 COUNTY OF SMITH))

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This instrument was acknowledged before me on this the
 23rd day of September, 1982, by JOHN H. HAMMOND,
 President of KIRKLAND-HAMMOND DEVELOPMENT CORPORATION a Texas
 corporation, on behalf of said corporation.

Evelyn Miller
 Notary Public
 My Commission Expires 2-24-85



STATE OF TEXAS COUNTY OF SMITH
 I hereby certify that this instrument was
 filed on the date and time stamped herein
 to me and was duly recorded in the volume
 and page of the public records of Smith
 County, Texas.



SEP 27 1982

MARY MORRIS

County Clerk, Smith County, Texas

Mary Morris

John Hammond
 4905 Kirkland
 Tyler TX 75703

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MARY MORRIS
COUNTY CLERK

RATIFICATION OF DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS AFFECTING THE
WOODS ADDITION, UNIT I, CITY OF TYLER,
SMITH COUNTY, TEXAS

1983 NOV -8 AM 9:28

SMITH COUNTY, TEXAS
BY Carly Johnson
DEPUTY

STATE OF TEXAS X
COUNTY OF SMITH X

WITNESSETH:

WHEREAS, by instrument dated August 17, 1982, recorded in Volume 2015, page 840, corrected in Volume 2031, page 207 and corrected in Volume 2086, page 336, Land Records of Smith County, Texas, KIRKLAND-HAMMOND DEVELOPMENT CORPORATION did thereby impress upon the Woods Addition, Unit I, and each of the lots therein, all as shown by plat of said addition recorded in Volume 10, page 156, Plat Records of Smith County, Texas, reference to which is here made for all purposes, certain restrictions and restrictive covenants as stated therein.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That I, John H. Hammond, President of KIRKLAND-HAMMOND DEVELOPMENT CORPORATION, being the developers of the addition do permit a change in the set back line as set out in Paragraph No. 5 of the above referenced restrictions on the following described property:

All that certain lot, tract or parcel of land situated within the corporate limits of the City of Tyler, Smith County, Texas, being a part of The Woods, Unit No. I, as shown on plat thereof recorded in Volume 10, page 156 of the Plat Records of Smith County, Texas, and also being Lot 16, N. C. B. 1539-B.

SIGNED THIS 3/4 day of October, 1983.

KIRKLAND-HAMMOND DEVELOPMENT CORPORATION

BY [Signature]
JOHN H. HAMMOND, PRESIDENT

STATE OF TEXAS X
COUNTY OF SMITH X

This instrument was acknowledged before me on the 3/4 day of October, 1983 by JOHN H. HAMMOND, President of KIRKLAND-HAMMOND DEVELOPMENT CORPORATION, a Texas corporation on behalf of said corporation.

My commission expires:

Oct. 16, 1987

NOTARY PUBLIC FOR THE STATE OF TEXAS
NOTARY'S PRINTED NAME: Julia Corry



JULIA CORRY
Notary Public, State of Texas
My Commission Expires Oct. 16, 1987

STATE OF TEXAS COUNTY OF SMITH
I hereby certify that this instrument was
filed on the date and time stamped herein
by me and was duly recorded in the volume
and page of the record records of Smith
County Texas.



NOV 10 1983

MARY MORRIS
COUNTY CLERK, Smith County, Texas

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3860

COVENANTS AND RESTRICTIONS
ON AND FOR
THE WOODS RESIDENTIAL SUBDIVISION

THE STATE OF TEXAS) (

COUNTY OF SMITH) (

KNOW ALL BY THESE PRESENTS:

WHEREAS; The Woods Property Owners Association, Inc., hereinafter referred to as "Association", is a non-profit entity incorporated August 9, 1984 under the Texas Non-Profit Corporation Act for the purpose of creating and carrying out a uniform plan for the development, maintenance and use of lots in Unit I and Unit II of The Woods Residential Subdivision, hereinafter referred to as "subdivision", an addition to the City of Tyler and recorded in Volume 2031, Page 207 and Volume 2222, Page 735, respectively, of the Land Records of Smith County, Texas and any future revisions, supplements or additions thereto, incorporated herein by reference for all purposes;

NOW, THEREFORE, the Association does hereby adopt and establish the following covenants, conditions and restrictions which shall be applicable to the entire subdivision to provide for the development, maintenance, preservation and architectural control; to promote the health, safety and welfare; and to preserve the beautification of the properties for all present and future owners of said lots:

1. Scope of Restrictions. The covenants, conditions and restrictions hereinafter set forth shall constitute covenants running with the land and persons or entities acquiring property in the subdivision, whether by purchase, descent, devise, gift or otherwise, and each person or entity, by the acceptance of title to any lot within the subdivision, shall thereby agree and covenant to abide by and perform the covenants, conditions and restrictions as set forth herein.

2. Residential Lots. All lots in the subdivision shall be used, known and described as residential lots. No building or structure shall be erected, altered, placed or permitted to remain on any residential lot other than a single-family residential dwelling and, if any, its customary and usual accessory structures, unless prohibited elsewhere herein. No building or structure on any residential lot shall exceed two (2) stories in height.

3. Minimum Floor Space. Each one (1) story dwelling constructed on any residential lot in the subdivision shall contain a minimum of one thousand seven hundred fifty (1,750) square feet of covered floor area, exclusive of all porches, garages or breezeways attached to the main dwelling. Each one and one-half (1-1/2) story or two (2) story dwelling constructed on any residential lot in the subdivision shall contain a minimum of two thousand (2,000) square feet of covered floor area,

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HARRY HARRIS
COUNTY CLERK
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SMITH COUNTY, TEXAS
By *Dorothy Dyke*
DEPUTY

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exclusive of all porches, garages or breezeways attached to the main dwelling. Notwithstanding any provisions to the contrary, any residence constructed on Lots 1 - 27, inclusive, Block 1539-C of Unit I; and on Lots 30A - 43, inclusive, and Lots 59 - 61, inclusive, Block 1539-C, and Lot 1, Block 1539-G of Unit II; as shown on the above referenced plat, shall contain a minimum of 2,000 square feet, whether such is a single story or multiple story dwelling.

4. Garages. Each single-family residential dwelling erected on any lot within the subdivision shall provide garage space for a minimum of two (2) conventional automobiles. Each garage shall open to the rear or side of the residential lot so as not to directly face the residential street or adjacent common area, unless otherwise expressly permitted by the Architectural Control Committee. Driveways shall be constructed of concrete or other material expressly approved by the Architectural Control Committee.

5. Setback Requirements. No building or structure of any type shall be erected on any residential lot in the subdivision nearer to the front property line than indicated by the minimum building setback line on the recorded plat of the subdivision. No building or structure shall be erected nearer to the side property line than: (i) a distance which is equal to ten percent (10%) of the width of the lot, or (ii) ten (10) feet, whichever is less. The lot width shall be measured at the front building line or at the midpoint of the lot, whichever is less. No part of any building or structure may be built any closer than twenty (20) feet from the rear property line for Unit I, nor any closer than twenty-five (25) feet from the rear property line, for Unit II. No portion of any structure, such as eaves or steps, shall encroach upon another residential lot.

6. Fences. No fence, wall or hedge shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line indicated on the recorded plat of the subdivision. No fence, wall or hedge shall exceed six (6) feet in height unless otherwise specifically required by the City of Tyler. All clothes lines or service facilities must be enclosed within fences, walls or landscaping so as not to be visible from the immediate residential street or adjacent common area. All fences must be of wood construction or other material expressly approved by the Architectural Control Committee. However, no clothes lines, service facilities, fences, walls or hedges shall be erected, placed or altered on any residential lot which borders the common area without the approval of the Architectural Control Committee.

7. Signs. No sign or signs shall be displayed to the public view on any residential lot, except that: (i) any builder, during the applicable initial construction and sales period, may utilize one professional sign (of not more than eight (8) square feet in size) per lot for advertising and sales

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purposes; (11) thereafter, a dignified "for sale" or "for rent" sign (of not more than nine (9) square feet in size) may be utilized by the owner of the respective residential lot for the applicable sale or rent situation.

8. Easements; Utilities. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded subdivision plat. Except as to special street lighting or other aerial facilities which may be required by the City of Tyler or may be required by the franchise of any utility company, no aerial utility facilities of any type (except meters, riser, service pedestals and other surface installations necessary to maintain or operate appropriate underground facilities) shall be erected or installed in the subdivision whether upon individual lots, easements, streets, or right-of-way including (but not limited to) any person owning or acquiring any part of the subdivision, and all utility service facilities, including (but not limited to) water, sewer, gas, electricity and telephone, shall be buried underground, under streets or utility easements (underground) to any structure located on any part of the subdivision.

9. Temporary Structures and Vehicles. No temporary structure of any kind shall be erected or placed upon any lot in the subdivision. Temporary structure shall include, but not be limited to, any garage, servant's house or other improvement erected more than one hundred twenty (120) days prior to the completion of the main portion of the single-family dwelling. However, any person or entity engaged in the sale of lots or in the construction of improvements thereon may maintain temporary sales or construction offices; provided such sales or construction offices are removed within thirty (30) days after completion of sales or construction, as the case may be.

Any truck, bus, boat, boat trailer, mobile home, campmobile, camper, or any vehicle other than a conventional automobile shall, if brought within the subdivision, be stored, placed or parked within the garage of the respective owner unless otherwise directed by the Architectural Control Committee.

10. Garbage; Weeds. No residential lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. All garbage shall be kept in sanitary containers. Unless otherwise required by the City of Tyler, no rubbish, trash, or garbage receptacles may be placed on any lot nearer to any street than the minimum building setback line indicated on the recorded plat of the subdivision.

If, at any time, an owner of any residential lot shall fail to control weeds, grass, and/or other unsightly growth, or rubbish, the Association shall have the authority and right to go onto said lot for the purpose of mowing and cleaning said lot and shall have the authority and right to assess and collect from the owner of said lot, a reasonable sum for mowing or cleaning said

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lot on each respective occasion of such moving and cleaning. The assessment, together with such interest thereon and costs of collection thereof, shall be a charge on the land and shall be a continuing lien upon each lot against which each such assessment is made. Each such assessment, together with such interest thereof and cost of collection thereof, shall also be the continuing personal obligation of the person who was the owner of such lot at the time when the assessment occurred. Each and every owner of any lot within the subdivision, by the acceptance of a deed or other conveyance of such lot shall thereby covenant and agree to pay such assessments. The lien securing any such assessment shall be subordinate and inferior to the lien or any mortgage and any renewals or extensions thereof existing prior to the assessment date.

11. Offensive Activities. No noxious or offensive activity shall be conducted on any residential lot nor shall anything be done thereon which is or may become an annoyance or nuisance to the subdivision or any portion thereof. No animals, livestock or poultry of any kind shall be raised, bred or kept on any residential lot, except dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for commercial purposes. Pets will be confined to the owner's premises at all times, except when accompanied by the owner. Further, no pit bulldogs or other potentially dangerous pets shall be kept on any lot.

12. New Construction. All dwellings and structures erected on any residential lot in the subdivision shall be new construction and consist of at least 50% brick. Old buildings may not be placed on any lot in the subdivision, even if they satisfy all other requirements. All roofs on such dwellings and structures shall be constructed from wooden shingles, composition shingles having a minimum weight of 300 pounds per square or other material expressly approved by the Architectural Control Committee. All mailboxes must be enclosed with masonry or other material expressly approved by the Architectural Control Committee. At the commencement of construction, lot owner shall provide a portable toilet facility which shall be placed on the lot for use by workers. Upon commencement of the framing phase of construction, lot owner shall provide a dumpster which shall be placed on the lot for the accumulation of waste and trash resulting from construction. Lot owner will keep the street and adjacent lots free of building debris and litter at all times.

13. Architectural Control Committee. The Architectural Control Committee, hereinafter referred to as the "Committee", shall be composed of the Vice-President, Architectural Control and the Board of Directors. The Committee shall function as the representative of the owners of the subdivision lots for the purpose herein set forth as well as for all other purposes consistent with the creation and preservation of a first-class residential subdivision.

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No building, structure or improvement of any nature shall be erected, placed or altered on any lot until the construction plans and specification and a plot plan showing the location of such building structure or improvement have been submitted to and approved in writing by the Vice-President, Architectural Control after approval by the Board of Directors as to: (i) quality of workmanship and materials, (ii) conformity and harmony of external design with existing structures, (iii) location with respect to topography and finished grade elevation, and (iv) the other standards set forth within this instrument.

Final plans and specifications shall be submitted in duplicate to the Vice-President, Architectural Control for approval or disapproval. At such time as the plans and specifications have final approval of the Board of Directors, one complete set of plans and specifications will be retained by the Board of Directors and the other complete set will be marked "Approved", signed by the Vice-President, Architectural Control and returned to the lot owner. If found not to be in compliance with these covenants and restrictions, one set of such plans and specifications shall be returned marked "disapproved" accompanied by a written statement signed by the Vice-President, Architectural Control and the President of the Association, setting forth those items found not to comply with these covenants and restrictions. Any modification or change to the approved set of plans and specifications must again be submitted to the Vice-President, Architectural Control for inspection and approval.

The Board of Directors may from time to time publish and promulgate architectural standards bulletins; such bulletins supplement these covenants and restriction and are incorporated herein by reference. The Board of Directors shall have the authority to make final decisions in interpreting the general intent, effect and purpose of these restrictions. The Committee's approval or disapproval as required in these covenants shall be in writing.

14. Property Owners Association and Assessments. Each and every owner of any lot within the subdivision, by the acceptance of a deed or other conveyance of such lot, agrees to become a member of the property owners association established for the subdivision and further covenants and agrees that he will bear and pay such portion of the specific expenses required and expended by said property owners association, its successors and assigns, for the maintenance of the common areas including but not limited to parks and lakes, and other expenses or assessments as are deemed necessary by said association. Further, by the acceptance and retention of title to any lot or lots, each grantee, on behalf of himself, his heirs and assigns, does hereby covenant and agree that said property owners association, its successors and assigns, shall have a lien upon the subject lot or lots second only to liens for taxes and any duly recorded mortgage or mortgages placed upon the property prior to the due

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date of any assessment for such expenses to secure the payment of the aforementioned expenses, including court costs and reasonable attorney's fees incurred in connection with the collection of same.

15. Enforcement. Enforcement of these covenants and restrictions shall be by a proceeding or proceedings at law or in equity, initiated by a person or persons owning any residential lot in the subdivision or by the President of the Association upon approval by the Board of Directors, or by the City of Tyler, against any person or persons violating or attempting to violate any covenant or restriction herein contained, either to restrain violation or to recover damages for the violation, or both, or to obtain such other relief for such violations as then may be legally available, the Board of Directors shall have an election and right to enforce these covenants and restrictions by a proceeding or proceedings at law or in equity.

16. Validity. Violation of or failure to comply with these covenants and restrictions shall not affect the validity of any mortgage, bona fide lien or other similar security instrument which may be then existing on any residential lot in the subdivision. Invalidation of any one of these covenants and restrictions, or any portion thereof, by a judgment or court order shall not affect any of the other provisions or covenants herein contained, which shall remain in full force and effect. In the event any portion of these covenants and restrictions conflict with mandatory provisions of any ordinance or regulation promulgated by the City of Tyler, then such municipal requirement shall control. Any deed or legal instrument (except deeds of trust, mortgages or other similar security agreements) purporting to convey, transfer or assign any interest in and land within the subdivision shall contain appropriate language to expressly subject the land within such conveyance, transfer of assignment to all the covenants and restrictions set forth herein. Words of any gender used herein shall be held and construed to include any gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise. The captions used in connection with paragraphs herein are for convenience only and shall not be deemed to construe or limit the meaning of language herein.

17. Amendment. At any time, the owners of the legal title to seventy percent (70%) of the lots within the subdivision (as shown by the records of Smith County, Texas) may amend the covenants, conditions and restrictions set forth herein by filing an instrument containing such amendment in the Office of the County Clerk of Smith County, Texas.

18. Duration. These covenants, conditions and restrictions are to run with the land and shall be binding on all parties and all persons claiming title in the subdivision until March 1, 2002. At the expiration of the primary term, the covenants, conditions and restrictions herein shall automatically be

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extended for successive periods of five (5) years unless an instrument providing otherwise is signed by a majority of the owners of the lots in the subdivision in whole or in part.

IN WITNESS WHEREOF, the Association has caused this instrument to be executed this the 7th day of February, 1991.

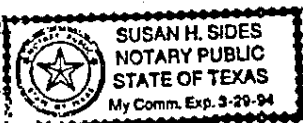
The Woods Property Owners Association, Inc.

By: Merlin Long - President
Merlin Long, President

STATE OF TEXAS) (

COUNTY OF SMITH) (

This instrument was acknowledged before me on this the 13th day of February, 1991, by MERLIN LONG, President of THE WOODS PROPERTY OWNERS ASSOCIATION, INC., a Texas corporation, on behalf of said corporation.



Susan H. Sides
Notary Public

My commission expires 3-29-94

STATE OF TEXAS COUNTY OF SMITH
I hereby certify that this instrument was
filed on the date and time stamped hereon
by me and was duly recorded in the Land
Records of Smith County, Texas.

FEB 15 1991



MARY MORRIS
COUNTY CLERK, Smith County, Texas
By [Signature] Deputy

DECLARATION OF COVENANTS, CONDITIONS,
ASSESSMENTS, CHARGES, SERVITUDES,
LIENS, RESERVATIONS, AND EASEMENTS (SINGLE FAMILY)

THE WOODS SUBDIVISION, UNIT VII

THIS DECLARATION of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations, and Easements (herein called "Declaration") is made as of the ____ day of June 1994, by Wheeler Interests, Inc., a Texas corporation, and Wheeler Development Company, a Texas corporation (herein called "Declarant").

WITNESETH

WHEREAS, in order to implement a general plan of development and accomplish the development of such lands as a first-class residential development of high quality and standards in a consistent manner, with continuity, and to insure the creation of an architecturally harmonious subdivision, Declarant desires to subject the Property, as hereinafter defined, to the covenants, conditions, assessments, charges, servitudes, liens, reservations, and easements hereinafter set forth (herein collectively called the "Covenants"); WHEREAS, there has been formed not-for-profit Texas Corporations by the name of Storey Lake Property Owners Association, Inc. (the Association") and The Woods Garden Club, Inc. (the "Club") and certain Reserved Areas (hereinafter defined) will be transferred to the appropriate corporation for the purpose of assuring the upkeep, maintenance, improvement and administration of the Reserved Areas, and for the purpose of enforcing the restrictions and covenants set out herein in collecting and disbursing the assessments and charges hereinafter set forth; and WHEREAS, Declarant has created and intends to create additional subdivision units which are/will be subjected to covenants and restrictions and portions of which do/will participate in the Association and/or the Club and enjoy the nonexclusive use of the Reserved Areas and Amenities (each term hereinafter defined) in cooperation with the certain owners of property in The Woods Subdivision, unit VII; NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold, and conveyed subject to the Covenants.

ARTICLE I
DEFINITIONS

The following words, phrases, or terms used in this Declaration shall have the following meanings:

- A. "Amenities" shall mean the parts of the Reserved Areas which are designed for recreational or social activities, including without limitation the lake and Recreation Area (hereinafter defined).
- B. "Assessment" shall mean any assessment levied, charged or assessed against an owner and/or his lot in accordance with this Declaration.
- C. "Architectural Control Committee" shall mean the Declarant or, if any when applicable, a committee, corporation or association appointed by Declarant for the purposes of exercising architectural control as provided in this Declaration.
- D. "Articles of Incorporation" shall mean the Articles of Incorporation of the Association or Club, as the case may be, as the same may from time to time be amended.
- E. "Assessment Lien" shall mean the Lien created and imposed by Article VII.
- F. "Association" shall mean and refer to Storey Lake Property Owners Association, Inc., a Texas not-for-profit corporation, its successors and assigns.
- G. "Board" shall mean the Board of Directors of the Association or Club, as the case may be. Any determinations or actions to be made or taken by the Board under this Declaration may be made or taken by a committee appointed by the Board pursuant to the Bylaws (hereinafter defined) and subject to any limitation imposed by Texas law.
- H. "Bylaws" shall mean and refer to the duly adopted Bylaws of the Association or Club, as the case may be, as the same may from time to time be amended.
- I. "Club" shall mean and refer to The Woods Garden Club, Inc., a Texas not-for-profit corporation, its successors and' assigns. "Club" shall also mean and refer to Wheeler Development Company, a Texas Corporation, prior to transfer of real property to Tile Woods Garden Club, Inc., as relates to such properties to be transferred.
- J. "Covenants" shall mean the covenants, conditions, assessments, charges, servitudes, liens, reservations, and easements set forth herein.
- K. "Declarant" shall mean Wheeler Interests, Inc., a Texas Corporation, and Wheeler Development Company, a Texas Corporation, and any successor and assign of Declarant's

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rights and powers hereunder, but with respect to any such successor or assign (i) such successor or assign shall not be deemed to be a “Declarant” unless such successor or assign is designated as such pursuant to a written instrument signed by Declarant (which written instrument shall be filed of record in the Real Estate Records of Smith County, Texas, designating that part of the Property to which it relates) and (ii) such successor or assign shall only have those rights and powers of Declarant that are specifically assigned by such written instrument. In specific matters relating to Storey Lake Property Owners, Association, Inc., “Declarant” shall mean Wheeler Interests, Inc. In specific matters relating to The Woods Garden Club, Inc., “Declarant” shall mean Wheeler Development Company.

- L. “Declarant Land” shall mean such part or parts of the Property, including but not limited to the Lots owned by Declarant, together with the buildings, structures and improvements thereon, if any, as may be owned now or at any time hereafter by the Declarant, for as long as the Declarant is the owner thereof. Declarant Land shall include any Lot or parcel of the Property, which is reacquired by Declarant through foreclosure and reconveyance or assignment in lieu of foreclosure or in cancellation of any purchase money indebtedness owed to Declarant.
- M. “Declaration” shall mean this Declaration of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations, and Easements, as amended or supplemented from time to time.
- N. “Deed” shall mean a deed or other instrument conveying the fee simple title to all or any portion of the Property, including but not limited to a Lot.
- O. “Dwelling unit” shall mean any portion of a building situated on a Lot designed and intended for use and occupancy as a residence by a single family.
- P. “Exempt Property” shall mean the following parts of the Property:
 - (1) All land and Permanent Improvements owned by or dedicated to and accepted by the United States, the state of Texas, the County of Smith, the city of Tyler, or any political subdivision thereof, for as long as such entity or political subdivision is the Owner thereof, or for so long as said dedication remains effective.
 - (2) All Declarant Land as defined in Article I, Paragraph L above.
 - (3) For a period of twelve (12) months after the date of sale by Declarant, any Lot, the Owner of which is a person who is regularly engaged in the business of residential construction.
 - (4) All land and buildings, structures and improvements thereon, if any, conveyed by Declarant to the Association or Club, including the Reserved Areas.
- Q. “Institutional Mortgage” shall mean and refer to a mortgage, the record holder of or beneficiary under which is on the public record a federally or state chartered bank, a federal or state savings bank or savings and loan institution, a real estate investment trust, any corporation whose primary business is the making, purchasing or placing of mortgage loans, any similar lending institutions, or any other Person approved by Declarant.
- R. “Lot” shall mean any lot described in the Final Plat of The Woods, Unit VII, as recorded in cabinet C, slide 83-A, of the Plat Records of Smith County, Texas, together with any lots which may, from time to time, result from the resubdivision, combination or division of any of such lots, as may be shown upon a plat or plats of the Property or any part thereof now or hereafter filed for record in the Map and Plat Records of Smith County, Texas (as such plat or plats may be amended from time to time). The term “Lot” shall also include any other portion of the Property which may, from time to time, be shown upon the aforementioned plat or plats (as same may be amended from time to time) and which is designated on such plat or plats to be a Lot by a separate written instrument executed by Declarant, or its successors or assigns, filed of record in the Real Estate Records of Smith County, Texas.
- S. “Maintenance Charges” shall mean any and all assessed pursuant to Article V or section 14.02.
- T. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot but excluding those having such interest merely as security for the performance of an obligation. For all purposes of this Declaration, the owner of more than one (1) Lot shall have one (1) vote for each Lot owned. The term Owner shall not include the Owner or Owner of any lesser estate or interest. At the time of transfer of any Lot notice of such transfer shall be given to the Association or Club, as the case may be, by the transferor. Any transferor who fails to give such notice shall be personally liable for all Assessments accruing after such failure and until such notice is given, but shall have none of the rights or privileges accruing to Owners hereunder.

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- U. “Permanent Improvements” shall mean with respect to any Lot or any other portion or parcel of the Property, any and all improvements, structures, and other materials and things (including, but without limitation, trees, berms, shrubs, hedges, and fences) which, at the time of each Assessment, are located thereon.
- V. “Plat” shall mean the subdivision plat of any portion of the Property presently on file in the Map and Plat Records of Smith County, Texas, and any other plat or plats of all or any portion of the Property now or hereafter filed for record in the Map and Plat Records of Smith County, Texas (as such plat or plats may be amended from time to time). The streets shown on the Plat, unless otherwise stated on the Plat, have been dedicated to the public.
- W. “Person” shall mean and refer to an individual, corporation, partnership, association, trust or other legal entity or any combination thereof.
- X. “Property” shall mean and refer to the land described in the Final Plat of The Woods Subdivision, unit VII, as recorded in cabinet C, Slide 83-A, of the Plat Records of Smith county, Texas.
- Y. “Recreation Area” shall mean that portion of the Property designated as such in any Plat.
- Z. “Reserved Areas” shall mean those areas, if any, of the Property (including without limitation streets, greenbelts, lakes and the Recreation Area), which are not now or hereafter designated on the Plat and intended by Declarant’s execution of the Plat as single family residential Lots. The ownership of such areas is to be transferred and assigned to Wheeler Development Company, with the exception of the greenbelt (Lot 15, NCB 1539-Q, The Woods unit 7), which shall be transferred to the Association or Club. The term “Reserved Areas” shall specifically include the Amenities.
- AA. “Subdivision” shall mean the residential1 subdivision located in Smith County, Texas, and known as ‘The Woods Subdivision, unit VII, according to the Final Plat of said subdivision recorded in Cabinet C, Slide 83-A in the Plat Records of smith county, Texas, as the same may be amended or supplemented from time to time, and where the context requires, any other subdivision within the Property as shown by a plat filed for record by Declarant in the Plat Records of Smith County, Texas.
- BB. “Subsidiary Declaration” shall mean any declaration of covenants conditions, assessments, or restrictions applicable to any portion of the Property which is recorded after the effective date hereof or which is otherwise subject hereto.

ARTICLE II

COVENANTS BINDING ON PROPERTY AND OWNERS

- 2.01 Property Bound. From and after the date of recordation of the Declaration, the Property shall be subject to the Covenants, and the Covenants shall run with, be for the benefit of, bind, and burden the Property.
- 2.02 Owners Bound. From and after the date of recordation of the Declaration, the Covenants shall be binding upon and inure to the benefit of each Owner and his heirs, executors, administrators, personal representatives, successors, and assigns, whether or not so provided or otherwise mentioned in the Deed. Except with respect to the Exempt Property, each Owner of a Lot for himself, his heirs, executors, administrators, personal representatives, successors, and assigns, expressly agrees to pay, and to be personally liable for, the Assessments provided for hereunder, and to be bound by all of the Covenants herein set forth. Except with respect to Exempt Property, each Lot owner shall be and remain personally liable, regardless whether he has transferred title to his Lot, for the amount of any Assessment (together with interest, costs, attorney’s fees as provided in Section 6.01) which fell due while he was an Owner. No owner of a Lot shall escape personal liability for the Assessments herein provided by transfer or abandonment of his Lot.

ARTICLE III

GENERAL RESTRICTIONS

- 3.01 Single-Family Residential Purposes. All Lots in the Property shall be used only for single-family residential purposes. No noxious or offensive activity of any sort shall be permitted, nor shall anything be done on any Lot, which may be or become an annoyance or nuisance to the neighborhood. No Lot in the Property shall be used for any commercial, business or

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other professional purposes, even though such business, professional, or commercial use be subordinate or incident to the use of the premises as a residence. The renting or leasing of any improvements thereon or portion thereof without the prior written consent of the Declarant, is prohibited.

- 3.02 Types of Structures. No building shall be erected, altered, or permitted to remain on any Lot in the Property other than one (1) detached single-family residential dwelling not to exceed two and one-half (2-½) stories in height. Each such Dwelling Unit shall have a private garage which shall not be detached from the main residential structure and which shall be fully enclosed and covered.
- 3.03 Minimum Square Footage. The living area of each residence (exclusive of porches, patios, garage, terraces, or driveways) on each Lot shall not be less than 2,200 square feet.
- 3.04 Setbacks. As to any Lot, except with respect to driveways, retaining walls, fences, planters, hedges, or other screening material, no Permanent Improvement or any part thereof, excluding Improvement or any part thereof, excluding roof overhang, be nearer than seven and one-half roof overhang, may be nearer than twelve (12) feet to any side street line, nor may any Permanent (7-1/2) feet to any adjacent lot line. No Dwelling unit may be located nearer than twenty-five (25) feet to the rear property line of the Lot, and no Permanent Improvement (except driveways) may be located on any Lot nearer to the front street line of such Lot than the setback established on the Plat. Where any setback line established on the Plat is more restrictive than the foregoing, such setback line established on the Plat shall control.
- 3.05 Walls, Fences, Hedges, and other Screening Material. As to any Lot, where a wall, fence, planter, hedge or other screening material is not specifically prohibited under the Special Restrictions set forth in Article V and is otherwise approved by the Architectural control Committee, the following (as to any permitted wall, fence, planter, hedge or other screening material) shall apply: (a) No wall fence, planter, hedge or other screening material in excess of two (2) feet high shall be erected or maintained nearer to the front Lot line than the front building setback line, nor on corner Lots nearer to the side Lot line than the building setback line parallel to the side street; and (b) no rear or side fence, wall, hedge or other screening material shall be more than six (6) feet high. Notwithstanding the foregoing, no wall, fence, planter, hedge or other screening material shall be permitted on any Lot adjoining a Greenbelt which would unduly interfere with the view from any other Lot or Greenbelt, as determined by the sole discretion of the Architectural control committee or Declarant. On such Lots adjoining a Greenbelt, materials used to construct any fence shall be only of wrought iron or lattice-brick construction, and shall be approved in writing by the Architectural Control Committee or Declarant prior to construction. The erection of a chain link fence anywhere within the subdivision is prohibited.
- 3.06 Driveways. As to any Lot, all driveways shall be entirely of concrete (except however, some other material may be used with the prior written consent of the Architectural Control Committee) and shall be paved before any Dwelling unit may be occupied. No driveway or other roadway may be constructed on any Lot in such a manner as to furnish access to any adjoining Lots or other property without the prior written consent of the Architectural Control Committee.
- 3.07 Walks. Walks from the street curb to the Dwelling unit shall have a minimum width of three and one-half (3 ½) feet and shall be constructed entirely of concrete (except however, some other material may be used with the prior consent of the Architectural Control Committee).
- 3.08 Construction Materials. All materials used in the construction of the exterior of any Dwelling Unit or other structure must be approved by the Architectural Control Committee before commencement of construction. Any exposed exterior walls, exclusive of doors, windows and gable areas, shall not be less than seventy percent (70%) brick, brick veneer, stone or stone veneer, with all other exterior construction materials to be of standard grade and quality. All solar collectors and panels to be incorporated into the design of any Dwelling Unit must receive specific approval from the Architectural Control Committee prior to commencement of construction. Only new construction materials shall be used (except for used brick if and as approved by the Architectural Control Committee on a case by case basis). No concrete blocks shall be used in construction unless the final exterior finish material covers the blocks. All Dwelling Units shall be built on a slab, solid concrete beam foundation, or a pier and beam foundation approved by the Architectural Control Committee. In no event shall any used building be moved onto any Lot.

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- 3.09 Roof Materials. Roofs of all Dwelling Units shall be constructed so that the exposed material is of a composition material of not less than 240 LB., 25-year warranty and a color acceptable to the Architectural Control Committee. All shingles used in the construction of a Dwelling Unit must be of a quality or grade equal to or higher than Prestique II; No wood shingles shall be allowed.
- 3.10 Prosecution of Construction.
- A. Commencement. Construction of a Dwelling Unit on a Lot in the Subdivision must commence on or before one (1) year from the date the Lot was originally purchased from Declarant. If construction is not commenced within said one (1) year period, the Declarant shall have the exclusive and unilateral right and option, but not the obligation, to purchase the Lot from the then Owner for the same price that was paid to the Declarant when the Lot was originally purchased from the Declarant. The Declarant may exercise this exclusive and unilateral right and option at any time after the expiration of the one (1) year period described above. Declarant shall give notice of the exercise of the exclusive and unilateral right and option by sending written notice of same to the then Owner of the Lot by certified mail, return receipt requested, to the street address of the Owner according to the records of the Architectural Control Committee as existing on the date of the mailing of such notice. Until construction of the initial Dwelling Unit on a Lot, each Owner of such Lot shall have the affirmative duty and is hereby required to at all times notify the Architectural Control Committee in writing of the current street address of the Owner. If at any time the Owner fails to notify the Architectural Control Committee of the current address of the Owner, then the Architectural Control committee shall not be required to give the Owner notice of the exercise of the exclusive and unilateral right and option, and such right and option may in such case be exercised by the Architectural Control Committee publishing notice one time only of its exercise of such right and option in the classified section of any newspaper regularly sold or distributed in Smith County, Texas.
- B. Completion. Any Dwelling Unit or other structure commenced upon any Lot shall be completed as to its exterior with reasonable diligence, and in all events within nine (9) months from the commencement of construction, unless completion is prevented by war, labor strike or an act of God. All temporary structures shall be removed within this period of time.
- 3.11 Water Wells. At no time shall the drilling, usage or operation of any water well be permitted on any Lot.
- 3.12 Air Conditioners and Heaters. No window or wall type air conditioners or heater shall be permitted on any Lot.
- 3.13 Utilities. Each and every Dwelling Unit shall be required to be connected to the water distribution system and sanitary sewer collection system in the subdivision as soon as such utilities are available in the easements adjacent to or within the respective Lot upon which the Dwelling Unit is located. Individual underground electrical service drops must be installed to each Dwelling Unit. Each Owner shall comply with the requirements of the applicable utility company regarding such underground service installations, including without limitation the payment of any lawful charges which might be incurred for the installation of the underground service as set forth in applicable utility company rules, regulations and terms and conditions of service, as the same may be amended from time to time without notice.
- 3.14 Drying Yard. The drying of clothes in public view is prohibited, and each Owner of a Lot at the intersection of streets or adjacent to the recreation area or other facilities where the rear yard or portion of such Lot is visible to the public, shall construct and maintain a drying yard or other suitable enclosure to screen drying clothes from public view.
- 3.15 Wiring of Dwelling unit. The electrical wiring of each Dwelling Unit, at the time of the construction thereof, shall include full compliance with certain wiring instructions to be furnished by the Architectural control Committee to the owner, which instructions will include the wiring of the Dwelling Unit in such a manner so as to condition it for the installation of an electrical security system. Although Declarant makes no, and hereby expressly disclaims any, representation regarding the installation of an electrical security system within the Subdivision, it is Declarant's intent that each Dwelling unit be pre-wired for such a system in the event such an electrical security system is installed within the Subdivision.
- 3.16 Mailbox. Any mailbox constructed on any Lot shall be constructed of brick and not otherwise. No metal mailboxes (unless surrounded by brick) shall be allowed in the subdivision.

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- 3.17 Retaining Walls. All Retaining walls shall be constructed of brick or stone. No crossties, “keystone” blocks, or landscaping timbers may be used for this purpose within the subdivision.
- 3.18 Lawns and Landscaping. The Owner of each Lot upon which a Dwelling Unit is constructed shall landscape the lawn area between the front of the Dwelling Unit and the curb Line of the abutting streets with solid sod. The sod shall be of a type within standards permitted by the Declarant. No hydromulching or similar methods shall be used on such area. On all areas of each Lot, grass and weeds shall be kept mowed to prevent unsightly appearance. If not mowed and edged by the Owner after written request to do so is made by the Declarant, then the Declarant shall have the right to cause the mowing and edging to be performed at the Owner’s expense. Dead or damaged trees, which might create a hazard to property or persons within the Subdivision shall be promptly removed or repaired. If not repaired by Owner upon request, then the Declarant may remove or cause to be removed such trees at the Owner’s expense. The Declarant shall not be liable for damage caused by such removal. Vacant lots shall be mowed and maintained in appearance by the Owner and shall not be used as dumping grounds for rubbish, trash, rubble or soil, except that Declarant may designate fill areas into which materials specified by Declarant may be placed. All landscaping shall be completed within two weeks after completion of the house.
- 3.19 Pitch. The pitch of the roof of any Dwelling unit constructed in the Subdivision shall be a minimum of 8:12.
- 3.20 Driveways. On each Lot there shall be constructed and the Owner shall maintain at his expense a driveway from the garage or garages to the abutting street, including the portion of the driveway in the street easement, and the Owner shall repair at his expense any damage to the street occasioned by connecting the driveway thereto. Unless otherwise approved by the Architectural Control Committee, no driveway shall be wider than twenty (20) feet in width or less than twelve (12) feet in width with the center of the driveway matching the center of the garage. All driveways shall be constructed with concrete material and shall not be less than four (4) inches thick.
- 3.21 Garage and Accessory Buildings. No garage or accessory building otherwise permitted by this Declaration shall exceed in height the dwelling to which it is appurtenant without the written consent of the Architectural Control Committee. Every garage or permitted accessory building shall correspond in style and architecture with the dwelling to which it is appurtenant. All garage doors shall be constructed of raised panel metal doors. No windows in the garage door shall be permitted if the garage fronts on any street. If the garage does not front on any street, then subject to the approval of the Architectural Control Committee, windows in the garage door shall be permitted.
- 3.22 Storage of Vehicles. Each Dwelling Unit must contain sufficient storage for no less than two (2) vehicles. It is the intention of this Declaration that all vehicles be parked in the garage to be included within the Dwelling Unit and that door of the garage shall remain closed except for ingress and egress of the vehicle and during periods of maintenance to the residence.
- 3.23 Curb Ramps. If required by applicable federal, state or local law, curbs with accompanying sidewalks shall have curb ramps (depressions in the sidewalk and curb) at all crosswalks to provide safe and convenient movement of physically handicapped persons confined to wheelchairs. Such curb ramps will be provided at the time of construction of any sidewalks and shall be constructed in accordance with specifications provided by the applicable governmental authority.
- 3.24 Disposal Units. Each kitchen in each Dwelling Unit shall be equipped with a garbage disposal unit in a serviceable condition.
- 3.25 Exterior Paint. The exterior surfaces of Dwelling Units shall not be painted unless the Architectural Control Committee gives its prior written approval of the color of paint to be used. The purpose of this covenant is to maintain consistency of the exterior paint colors of the Dwelling Units throughout the Subdivision. All exterior wood shall receive at least two coats of paint or sealer at the time of construction. Accordingly, the Committee shall not be obligated to approve any color of exterior paint that is different from the original paint applied to the exterior of the Dwelling Unit.
- 3.26 Brick/Mortar. Not in limitation of other provisions in this Declaration, the brick used in any construction as well as the mortar to be used shall be approved by the Declarant or, if appointed, the Architectural Control Committee. Special restrictions may, however, subsequently be adopted in accordance with the amendment provisions of this Declaration.

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- 3.27 Trees. Every effort shall be made to protect as many trees as possible within the subdivision and each Lot owner is encouraged to design their residence so as to accomplish this purpose. Prior to construction each Lot Owner shall meet on site with the Declarant or his representative to designate those trees that will not be removed. Declarant or his representative shall make the final decision as to which trees shall remain. Once so designated, those trees shall not be removed without the consent of the Declarant or his representative. The Declarant shall be notified by the Lot Owner or his representative prior to site preparation as to when such site preparation shall take place, and the Declarant or his representative has the right to be present at the time of such preparation. If any Lot Owner fails to comply with this section 3.27, such failure to comply shall be deemed improper maintenance under provisions herein, and Declarant or the Association or the Club, as the case may be, shall have the remedies provided for herein to cure such default.
- 3.28 Sprinkler System. Upon construction of a Dwelling Unit, Owner shall also install an underground sprinkler system adequate to provide water to all lawns, flowerbeds, and other landscaping on the Lot. The plans for the sprinkler system shall be subject to approval by the Declarant (or Architectural control committee, if appointed) in accordance with section 13.02 of this Declaration.
- 3.29 Drainage. The Owner of each Lot shall construct adequate drainage controls on said Lot to prevent erosion on said Lot, adjoining Lots, and on the Greenbelt. Said controls shall be approved by the Declarant or the Architectural control Committee. If any Owner fails to comply with this section 3.29, such failure to comply shall be deemed improper maintenance under provisions herein, and Declarant or the Association or the Club, as the case may be, shall have the remedies provided for herein to cure such default.
- 3.30 Greenbelt Lot Construction. In order to preserve environmental integrity and to protect as many trees as possible, the sides of houses adjoining a Greenbelt may be required to be of curtain wall construction. Declarant, or his representative, or the Architectural Control Committee, in his/its sole discretion, shall determine the need for such construction based upon the slope of the Lot and the location of trees.

ARTICLE IV

SPECIAL RESTRICTIONS

- 4.01 Reserved Areas. In addition to the General Restrictions set forth in Article III, the following restrictions shall apply to Lots adjacent to Reserved Areas:
- A. No wall, fence, planter, hedge or other screening devise shall be constructed or permitted which obstructs the view of any other Lot to the area within the Reserved Area.
 - B. Without the prior written approval of the Architectural Control Committee, any garage or other structure must be attached to the main residence and must not be nearer than fifteen (15) feet to tile common boundary separating such Lot adjacent from Reserved Areas.
 - C. Nothing in this Article IV shall alter or affect the obligation of any owner to obtain the prior approval of the Architectural Control Committee for any improvements placed on any Lot.

ARTICLE V

IMPROPER MAINTENANCE BY OWNER

- 5.01 General. Each Owner shall, at his expense, keep any Dwelling Unit and other improvements in good repair and condition and in a clean and sanitary condition and shall do all redecorating, painting and varnishing which may from time to time be necessary to maintain the good appearance and condition thereof. Each Owner shall maintain and care for all trees, plants or foliage on his Lot and otherwise keep his Lot in conformity to its condition when new.
- 5.02 Improper Maintenance by Owner. In the event any portion of the Property (other than Declarant Land) or any Dwelling Unit thereon is, in the judgment of the Declarant, so maintained by the Owner thereof (i) as to present a public or private nuisance, (ii) as to substantially detract form the appearance or quality of the surrounding Lots or other areas of the Property or any adjacent land owned by Declarant, or its successors or assigns, not presently included in the Property but which is substantially affected thereby

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or related thereto, or (iii) as to not comply with these Covenants, the Declarant may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto deliver notice thereof to the offending Owner that unless corrective action is taken within ten (10) days, the Declarant may cause such action to be taken at such Owner's cost. If after the expiration of said ten (10) day period of time the requisite corrective action has not been taken, the Declarant shall be authorized and empowered to cause such action to be taken and the costs thereof, including but not limited to the costs of collection, court costs and attorneys fees (such costs being herein collectively called the "Maintenance Charge"), together with interest accruing thereon from the expiration of such ten (10) day period at the rate specified in section 7.07 hereof, shall be assessed against the Lot and the Dwelling Unit of the offending Owner. The Maintenance charge, together with all interest accruing thereon, shall be secured by the Extraordinary Assessment Lien as provided in section 7.04 hereof. If Declarant takes the corrective action, then it shall hold the Assessment Lien for all purposes. Written notice of such Assessment Shall be delivered to the offending Owner which notice shall specify the amount of such Maintenance Charges and shall demand payment thereof within ten (10) days after the date of said notice.

ARTICLE VI

ASSESSMENTS

- 6.01 General. The Association shall have the power to levy Assessments against each of the following Lots (except Exempt Property):
Lots 13, 14, 15, 16A, 17A, 18A & 20A, N.C.B., 1539Q, The Woods Unit 7
and the Club shall have the power to levy Assessments against all remaining lots in The Woods unit 7, including (except Exempt Property):
Lots 44 through 52, N.C.B. 1539-0, The Woods Unit 7
Lots 10 through 24, N.C.B. 1539-T, The Woods Unit 7
Lots 21A through 30A, N.C.B. 1539-Q, The Woods unit 7
and the Owner thereof, and each Owner, and, if more than one Person, all such Persons, jointly and severally, by acceptance of the deed to a Lot, whether or not it shall be expressed in any such deed, shall be deemed to covenant and agree to pay all such Assessments in the manner and for the purposes provided herein. Subject to the provisions hereof, the Board shall have the power and authority to determine all matters in connection with Assessments, including the power and authority to determine where, when and how Assessments shall be paid to the Association or Club, as the case may be, and each Owner shall comply with such determinations. Notwithstanding anything in this Declaration or in Bylaws to the contrary, neither Declarant nor the Declarant Land shall be liable for any Annual, Supplementary, Special or Extraordinary Assessment except that if Declarant shall lease any Dwelling Unit owned by it, it shall pay Annual, Supplementary, Special and Extraordinary Assessments with respect to such leased Dwelling Unit during the period of such tenancy.
- 6.02 Annual Assessments. In order to provide funds for the purposes and uses specified in Article IX hereof, the Declarant in each year, commencing with the year in which these Declarations are recorded, shall assess against the Assessable Property an Annual Assessment. The Annual Assessment for each Lot subject to the Club shall be sixty and no/100 (\$60.00) Dollars per Lot, and the Annual Assessment for each Lot subject to the Association shall be Three Hundred and no/100 (\$300.00) Dollars per Lot, such amount to be prorated by the Club or Association if the first Assessment Period (hereinafter defined) is less than twelve (12) months. The Annual Assessments may be increased by the Club or Association following January 1 of each calendar year subsequent to the first Assessment Period. Annual Assessments may be made for the purposes of providing funds for the normal operations of the Subdivision, including the Reserved Areas. Without limiting the generality of the foregoing, the Declarant, and if the authority has been delegated, the Club and/or Association, shall perform or cause to be performed the following duties as applicable to or appropriate for the Club or Association:
- A. Effecting repairs, replacements and additions to the Reserved Areas and facilities thereon;
 - B. Paying ad valorem and other property taxes and Assessments levied thereon;
 - C. Contracting for such employees and other management necessary or appropriate to the operation and maintenance of the Reserved Areas and supervision thereof;

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- D. Pay monthly charges by City of Tyler for water and sanitary sewer service to the amenities, if any; and
- E. Obtaining general public liability insurance in the amount deemed necessary by the Board and sufficient property damage insurance such that the proceeds would be sufficient to replace any permanent facilities constructed on the Reserved Areas. The total amount of money required to be raised by Annual Assessments for each fiscal year shall be the amount, as determined by the Board, necessary to satisfy the costs and expenses of fulfilling such functions and obligations of the Association or Club in such fiscal year, including the payment of deficits from prior fiscal years and providing a reasonable reserve for the following fiscal year. The Board of Directors shall determine the amount of the Annual Assessments per Lot for such fiscal period as provided in section 6.06 of this Article VI.
- 6.03 Supplementary Assessments. In the event that the Board shall determine, at any time or from time to time, that the amount of the Annual Assessments are not adequate to pay for the cost and expenses of fulfilling the Association's obligations hereunder, one or more Supplementary Assessments may be made for the purpose of providing the additional funds required; provided that any such Assessment shall have the assent of at least two-thirds (2/3) of the outstanding Owners pursuant to votes cast at a meeting, duly called for this purpose, written notice of which shall be delivered to all owners not less than ten (10) nor more than fifty (50) days in advance of the meeting, setting forth the purpose of the meeting; provided further that the maximum amount of any special Assessment for this purpose which may be assessed against any Member in any year shall not exceed an amount equal to twice the annual Assessment against said Member for the same year. The Board shall determine the amount required to be raised by each Supplementary Assessment. Based on such revised determination, the Board may make a per Lot Supplementary Assessment for such fiscal year, the amount of which shall be determined by the Board as provided in section 6.06 of this Article VI.
- 6.04 Extraordinary Assessments. In the event the Declarant shall maintain or repair any Dwelling Unit pursuant to Article V, the Declarant may make an Extraordinary Assessment against such Lot, and the Owner thereof, to recover the actual amounts expended by the Declarant in making, or causing to be made, such repair and/or in maintaining such Dwelling Unit plus an amount, to be determined by the Declarant not to exceed twenty-five percent (25%) of the total amount thereof to cover overhead and administrative costs of the Declarant. The Declarant may also make all Extraordinary Assessment against an Owner and his Lot to recover any amounts paid by Declarant for which an Extraordinary Assessment may be levied as provided in this Declaration or the Bylaws. Notwithstanding any provision of this Declaration to the contrary, the Owners of all lots and their property shall be obligated to pay the Extraordinary Assessment of this section 7.04 when assessed.
- 6.05 Special Assessments. Special Assessments may be made for the purposes of raising funds for capital improvements and for any other Association or Club purposes for which Annual Assessments may not or have not been made. The Board shall determine whether to make a special Assessment and the amount thereof per Lot provided that no Special Assessment shall be valid unless approved by at least two-thirds (2/3) of the Members of the Association or Club, as the case may be.
- 6.06 Assessments in Equal Amounts: Exceptions. All Annual, Supplementary and Special Assessments shall be allocated equally among all the Lots within the subdivision excluding (i) all Declarant Land other than Lots leased by it to others and (ii) for a period of twelve (12) months after the sale to such builder Lots sold by Declarant to any person who is regularly engaged in the construction of single family residences. Anything to the contrary contained in this Declaration notwithstanding, the amount of the Assessments payable with respect to a Lot in any fiscal year of the Association or Club shall not include any installments accruing during the period such Lot was owned by Declarant (unless a Dwelling Unit located thereon was then leased by Declarant to others) it being intended as above provided that Declarant shall pay no Assessment for any Lot owned by it.
- 6.07 Time for Payments; Expenses. The Annual Assessment for each Lot shall be payable, subject to Section 6.06 of this Article VI, in twelve (12) equal monthly installments due on the first day of each month, unless the Board shall adopt some other payment schedule. The Declarant shall prepare and forward to each Owner a statement setting forth the amount of the Annual Assessment assessed against each Lot, stated in terms of the total sum now due and owing, and the amounts payable if paid in installments; provided that the dates of any installment payments shall be set forth, and no installment shall be due less

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than thirty (30) days from the date of the mailing of such statement. Special and Supplementary Assessments shall be payable as provided in the resolutions authorizing the same. All installments of Annual Supplementary and Special assessments shall be due and payable without notice or demand and all Assessments shall be paid without any set-off or diminution of any kind. All payments on account shall be first applied to interest and late charges and then to the Assessment payment first due. All delinquent payments of Assessments shall bear interest at the lesser of (i) eighteen (18 %) percent per annum from such due date until paid (or at such a lesser rate as may be determined by the Declarant [or the club or Association as the case may be] in its sole discretion on a case by case basis from time to time), or (ii) the highest non-usurious rate allowed by law and the Owner shall be deemed to have agreed in writing to the payment of such interest and all costs, including court costs and attorneys' fees which may be incurred by the Declarant in collecting same.

- 6.08 Estoppel Certificate. Upon payment of a reasonable fee and upon written request of any Owner of a Lot or any person with any right, title or interest in a Lot or intending to acquire any right, title or interest in the Lot, the Association or club shall furnish a written statement setting forth the amount of any Assessments, if any, due or accrued and then unpaid with respect to such Lot and the amount of the Assessments for the current fiscal period of the Association or Club payable with respect to the Lot, which statement shall, with respect to the party to whom it was issued, be conclusive against the Association or Club, for all purposes, that no greater or other amounts were then due or accrued and unpaid.
- 6.09 No Abatement. No diminution or abatement of Assessments shall be allowed or claimed for any reason including without limitation for the making of repairs or improvements to the Reserved Area or Lots for any action taken to comply with any law, ordinance or order of a governmental authority.
- 6.10 Assessment Period. The Declarant shall establish either a calendar or fiscal year (herein called the Assessment Period") for which the Annual Assessment is to be levied. The Club or Association in its sole discretion may from time to time change the Assessment Period.
- 6.11 Rules Regarding Billing and Collection Procedures. The club and Association shall have the right to adopt rules and regulations setting forth procedures for the purpose of making the Assessments provided herein and for the billing and collection of the Assessments and the Maintenance Charges, provided that said procedures are not inconsistent with the provisions hereof.

ARTICLE VII

IMPOSITION OF LIEN: EXEMPTION: OWNERS' AGREEMENT

- 7.01 Imposition of Assessment Lien and Priority of the Lien. Except with respect to Exempt Property, each Lot shall be charged with and subject to a continuing servitude and lien from the date of recordation of this Declaration for the amount of the Assessments assessed and levied against each such Lot, for Maintenance Charges, for any interest accrued on any Assessments or Maintenance Charges provided for herein and for any and all costs, including court costs and attorneys' fees incurred by Declarant or Club or Association in collecting same. Each Lot shall be charged with and subject to a continuing servitude and lien from the date of recordation of this Declaration for the amount of the Extraordinary Assessments (Section 7.04) and for Maintenance Charges (Section 6.02) provided for herein and for any and all costs, including court costs and attorneys' fees incurred by Declarant or Club or Association in collecting same. Except as provided in section 9.03 hereof, the lien (the "Assessment Lien") against each such Lot shall be superior to any and all other charges, liens, or encumbrances which hereafter in any manner may arise or be imposed upon each such Lot, except that such Assessment Lien shall be subject and subordinate to liens for taxes and other public charges which by applicable law are expressly made superior.
- 7.02 Owners' Promises - Lots. Each Owner, owning a portion of the Assessable Property, for himself, his heirs, executors, administrators, personal representatives, successors, and assigns, covenants and agrees:
- A. That he will pay the club or Association when due the Assessments assessed by the Club or Association in each year against his Lot, together with any Maintenance Charges imposed;
 - B. That he acquires his Lot subject to the Assessments and Maintenance Charges and the Assessment Lien, as they may exist from time to time; and

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- C. That by accepting a Deed to his Lot, he shall be, and remain, personally liable for any and all Assessments and Maintenance Charges assessed against his Lot while he is (or was) the Owner thereof, regardless of whether such covenants or agreements are expressed in such Deed and regardless of whether he signed the Deed.

ARTICLE VIII

ENFORCEMENT OF PAYMENT OF ASSESSMENTS AND MAINTENANCE CHARGES AND OF ASSESSMENT LIEN

- 8.01 Declarant as Enforcing Body. The Declarant, Club and/or Association shall have the exclusive right to enforce the provisions of this Declaration regarding Assessments. If, however, (i) the Declarant, Club and/or Association shall fail or refuse to enforce this Declaration for an unreasonable period of time, after written request from an Owner to do so, then any Owner may enforce this Declaration at his sole cost and expense by any appropriate action, whether at law or in equity, and (ii) Declarant, Club and/or Association may enforce the Assessment Lien for any sums expended by it for Maintenance Charges as provided in Article V and section 6.04 of Article VI.
- 8.02 Declarant's, Club's and/or Association's Enforcement Remedies. If (i) the Owner of any Lot constituting a portion of the Assessable Property fails to pay any of the Assessments or installments when due (ii) the Owner of any Lot fails to pay any Extraordinary Assessment when due, or (iii) the Owner of any Lot (except exempt Property) fails to pay Maintenance charges assessed, or to pay any interest accrued on any Assessments or Maintenance Charges, and any and all costs (including court costs and attorneys' fees) incurred by the Declarant or Club or Association in collecting same; the Declarant or Club or Association, as the case may be, may enforce the payment of the Assessments, Maintenance Charges, and all interest accrued thereon and costs incurred by the Declarant or Club or Association in collecting Same, and/or enforce the Assessment Lien by taking either or both or the following actions, concurrently or separately (and, by exercising either of the remedies hereinafter set forth, the Declarant or Club or Association does not prejudice its exercise of any other remedy):
- A. Bring an action at law and recover judgment against the Owner personally obligated to pay the Assessments or the Maintenance Charges;
 - B. Enforce the Assessment Lien against the Lot by any means, available at law or in equity, including without limitation a non-judicial foreclosure sale of the Lot, such sale to be conducted in the manner set forth in §51.002 of the Texas Property Code, as the same may be amended or supplemented from time to time. The Association, Club, Declarant or any other Owner may be the purchaser at any such foreclosure sale.
- 8.03 Subordination of the Lien to First Mortgage or Deed of Trust. The Assessment Lien provided for here in shall be subordinate to any Institutional Mortgage. The sale or transfer of any Lot shall not affect the Assessment Lien; provided, however, that if the sale or transfer is pursuant to foreclosure of such a mortgage or deed of trust, or pursuant to any sale or proceeding in lieu thereof, the purchaser at the mortgage foreclosure or deed of trust sale, or any grantee taking by deed in lieu of foreclosure, shall take the Lot free of the Assessment Lien for all Assessments and Maintenance charges, that have accrued up to the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure; but upon the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure, the Assessment Lien immediately shall become and remain superior to any and all other charges, liens, or encumbrances (except liens for taxes or other public charges which by applicable law are expressly made superior and except to the extent stated herein with respect to any subsequent first lien financing), and such mortgage or deed or trust foreclosure sale purchaser or grantee shall (i) take subject to all Assessments, Maintenance Charges, and the Assessment Lien therefore accruing subsequent to the date of issuance of a sheriff's or trustee's deed or deed given in lieu of foreclosure and (ii) be and remain personally liable for all Assessments (together with interest, costs and attorneys' fees as provided in section 6.01 hereof) which fall due while he is an Owner.
- 8.04 Costs to be borne by Owner in Connection with Enforcement. In any action taken pursuant to section 9.02 of this Article, the Owner shall be personally liable for, and the Assessment Lien shall be deemed to secure the amount of, the Assessments and Maintenance Charges together with interest and the Declarant's, Association's or Club's costs and attorneys' fees.

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ARTICLE IX

USE OF FUNDS

- 9.01 Purpose For Which Association's Funds May Be Used. The Declarant, Club or Association shall apply all funds collected and received by it through its imposition of the Assessments (except Extraordinary Assessments) for the benefit of the Amenities and Reserved Areas and the Owners of Lots by devoting said funds, among other things, to the acquisition, construction, alteration, maintenance, provision, and operation by any manner or method whatsoever, of any and all land, amenities, properties, improvements, facilities, services, projects, programs, studies, and systems, within or without the Reserved Areas, which may be necessary, desirable, or beneficial, in the Declarant's, Club's, or Association's sole judgment, to the interests of the Amenities and Reserved Areas and the Owners. Any funds expended for the acquisition, construction, alteration, maintenance, provision and operation of the Amenities (including without limitation the lake and recreation area), shall be conclusively deemed for all purposes to be beneficial to the interests of the Owners of the Lots.
- 9.02 Declarant's, Club's and Association's Rights in Spending Funds from Year to Year. The Declarant, Club, or Association shall not be obligated to spend in any year all the sums received by it in such year, and it may carry forward as surplus any balance remaining. The Declarant, Club or Association shall not be obligated to apply any such surpluses to the reduction of the amount of the Assessment in the succeeding year, but may carry forward from year to year such surplus as the Declarant, Club, or Association in its discretion may determine to be desirable for the effectuation of the purposes set forth in this Article.

ARTICLE X

RIGHTS AND POWERS

- 10.01 Enforcement. The Declarant, Club, and the Association and any Owner shall have the right to enforce the Covenants set forth in this Declaration. Only the Declarant, club or Association shall have the right to enforce the portions of the covenants regarding charges, servitudes, assessments, and liens provided for in the Declaration; provided, however, only the Declarant, club or Association shall have the right to enforce the Maintenance Charge (Section 5.02) and the Extraordinary Assessment (Section 6.03).
- 10.02 Right to Inspect. The Declarant, club or Association shall have the right to enter all Lots for the purpose of inspecting whether or not the Owner thereof is in compliance with the Covenants. If during the course of construction of a Dwelling Unit upon a Lot, Declarant, Club or Association determines that there is a violation of the Covenants, the Declarant, Club or Association may order a discontinuance of the construction of the Dwelling Unit until such time as corrective measures have been taken to assure full compliance with the Covenants, and an Owner's failure to immediately discontinue or cause the discontinuance of construction of the Dwelling Unit, upon demand by Declarant, shall constitute a further violation of this Declaration by that Owner.

ARTICLE XI

EASEMENTS AND RIGHTS OF ENJOYMENT IN RESERVED AREAS; RESERVATIONS OF DECARANT

- 11.01 Rights of Enjoyment in Reserved Areas. Every Owner of a Lot, his immediate family, tenants and guests shall have a nonexclusive right and easement of enjoyment in and to the Reserved Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:
- A. The right of the Declarant in its sole discretion to grant easements and rights of way on, across, under, and over the Reserved Area to any district or other entity providing water, sewer, gas, electricity, telephone, cable television or other similar service to the Subdivision or any part thereof.
 - B. The right of the Declarant and Club and Association to make such reasonable rules and regulations regarding the use of the Reserved Area and facilities located thereon by the Owners of Lots and other Persons entitled to such use.
 - C. The right of the Declarant to dedicate or transfer all or any part of the Reserved Area to any board, agency, authority or utility for such purposes and subject to such conditions as maybe agreed to by the Owners of Lots. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of

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the Members has been recorded.

- D. The right of the Club or Association, in accordance with its Articles of Incorporation and Bylaws, to borrow money for the purpose of improving Reserved Areas and facilities and constructing new facilities thereon and in connection therewith to mortgage the Reserved Areas or portions thereof, by vote of two-thirds (2/3) of the Members of said Club or Association.
- E. The right of the Club or Association to suspend a Member's voting rights and rights to use the Reserved Areas and facilities thereon (1) for any period during which any Assessment against his Lot remains unpaid, or (2) for a period not to exceed thirty (30) days because of an infraction of the Club's or Association's published rules and regulations by a Member of his family or guest.
- F. The right of the Club or Association to charge reasonable admission and other fees for the use of any recreation facility situated on the Reserved Areas, if any.
- G. All rights reserved to the Declarant, other Owners and the Club and Association in this Declaration.

11.02 Development and Conveyance of Reserved Areas. The Recreation Area conveyed to the Association shall be subject to the covenants, restrictions, easements and encumbrances set forth herein, and/or of record at the date of said conveyance with the following covenant which shall be binding upon the Association, its successor and assigns: "In order to preserve and enhance the property value and amenities of The Woods Subdivision t U n i t V I I, and subdivisions abutting the Recreation Area, the Recreation Area shall at all times be maintained in good repair and condition and shall be operated in accordance with high standards." The Association shall be responsible for the maintenance and operation of the Recreation Area. Declarant retains in such deed a right of re-entry in the event the Association fails to properly maintain or operate the property.

11.03 Reservations of Declarant. The following reservations are hereby made by Declarant:

- A. The utility easements shown on any Plat are dedicated with the reservation that such utility easements are for the use and benefit of any public utility operating in Smith County, Texas, as well as for the benefit of Declarant to allow for the construction, repair, maintenance and operation of a system or systems of electric light and power, telephone lines, television cable lines, security, gas, water, sanitary sewers, storm sewers and any other utility or service which Declarant may find necessary or proper.
- B. Declarant reserves the right from time to time to make changes in the location, shape, and size of, and additions to, the easements described in section 11.03 (A) for the purpose of more efficiently or desirably installing utilities therein and thereon.
- C. The title conveyed to any part of the Property shall not be held or construed to include the title to the water, gas, electricity, telephone, storm sewer or sanitary sewer lines, poles, pipes, conduits, cable television lines or other appurtenances or facilities constructed by Declarant or public utility companies upon, under, along, across or through such utility easements; and the right (but not the obligation) to construct, maintain, repair and operate such systems, utilities, appurtenances and facilities is reserved to Declarant, its successors and assigns.
- D. The right to sell or lease the lines, utilities, appurtenances and other facilities described in section 11.03 C to any municipality, governmental agency (including any water control or utility district covering the Property as well as other lands), public service corporation or other party is hereby expressly reserved to Declarant.
- E. Neither Declarant nor its successors or assigns shall be liable for any damage done by any of such parties or any of their agents or employees to shrubbery, trees, flowers or other property of an Owner situated on the Lots covered by the above described utility easements.
- F. The right to enter upon any Lot or Lots during installation of streets for the purpose of performing street excavation, construction, and paving is hereby reserved to Declarant, its successors and assigns, and neither Declarant, nor Its successors or assigns, shall be liable for any damage done by any such parties or any of their agents or employees to shrubbery, trees, flowers or other property of the Owner which is necessitated by such street construction.

ARTICLE XII

FURTHER CONVEYANCES OF AND NOTIFICATIONS TO DECLARANT LAND

The Declarant shall have the absolute, exclusive and. unrestricted right, exercisable in its sole discretion, without consent from any Owner, to (i) sell, transfer, convey, lease, dedicate,

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encumber or in any manner alienate to any public or private entity the Declarant Land or any part thereof on such terms and in such manner as Declarant in its sole discretion may determine, or (ii) modify the nature, scope, location, configuration, construction, design or other characteristics of the Declarant Land, or any part thereof.

ARTICLE XIII

ARCHITECTURAL CONTROL

- 13.01 Architectural Committee. The Declarant or a committee appointed by Declarant shall be the sole architectural committee of the original construction on any Lot and have approval over any improvements to be made on any Lot. After original construction is completed, the Club or Association shall be the sole architectural committee and any alterations or additions, including but not limited to the change of color or additional exterior construction, shall first have the approval of the Architectural Control Committee appointed by the Board.
- 13.02 Prior Approval. No building, fence, wall, sign, exterior light, or other structure or apparatus, either permanent or temporary shall be commenced, erected, placed, or maintained upon any Lot constituting a portion of the Property, nor shall any exterior addition thereto, change therein or alteration, excavation, subdivision or resubdivision thereof, including without limitation changes in or alteration of grade, landscaping, roadways, and walkways, be made until the plans and specifications showing the nature, kind, shape, height, materials, color, location, and other material attributes of the same shall have been submitted to and approved in writing by Declarant or by an Architectural Control Committee appointed by Declarant as to (i) compliance with the Covenants herein contained, and (ii) harmony of external design and location in relation to surrounding structures and topography which are now or hereafter existing or proposed, including, but not by way of limitation, as to architectural designs, setbacks, landscaping, color schemes and construction materials. In the event Declarant or the Architectural Control Committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required, and such Applicant shall be deemed to have fully complied with this Article XIII. Non-exercise of the powers hereby reserved by Declarant or the Architectural Control Committee in one or more instances shall not be deemed to constitute a waiver of the right to exercise such power in other or different instances. Likewise, approval of any one set of plans and specifications shall not be deemed to constitute approval of any other or different plans and specifications. In the absence of gross negligence or willful misconduct attributable to Declarant or an architectural committee appointed by Declarant or the Association or the Club, neither Declarant nor such architectural committee shall be liable for tile improper enforcement or failure to exercise any of the powers reserved unto Declarant pursuant to this Article. In no event shall any approval obtained from Declarant or such architectural committee pursuant to the terms of, this Article, be deemed to be a representation of any nature regarding the structural safety or engineering soundness of the structure or other item for which such approval was obtained; nor shall such approval represent in any manner compliance with any building or safety codes, ordinances or regulations; nor shall such approval be construed as n representation or warranty as to any matter which is the subject of such approval.
- 13.03 Reservation of Architectural Control. Nothing contained in this Declaration to the contrary, Declarant reserves to itself the right and power to approve and control all construction in the Subdivision, including the right to delegate the powers hereby and thereby reserved to (i) a committee appointed, empowered and constituted by Declarant, (ii) a corporation or association, profit or non-profit, whose directors and officers may be elected and designated by Declarant, or (iii) the club and/or Association.

ARTICLE XIV

MAINTENANCE

- 14.01 Declarant Land. The Declarant or its duly delegated representative, shall maintain and otherwise manage all Declarant Land, including but not limited to, the landscaping, walkways, riding paths, parking areas, drives, streets, and recreational facilities, roofs, interiors and exteriors of the buildings and structures located upon said properties. The Declarant shall use a reasonable standard of care in providing for the repair, management, and maintenance of the Declarant Land.

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- 14.02 Assessment of Costs of Maintenance and Repair of Declarant Lands. In the event that the need for maintenance or repair of Declarant Land is caused through the willful or negligent act of any Owner, his family, guests or invitees, the cost or such maintenance or repairs shall be added to and become part of the Maintenance Charge to which such Owner's Lot is subject, payable and subject to interest as set forth in Article V hereof, and shall be secured by the Assessment Lien.
- 14.03 Powers of the Club and Association Generally. In addition to the powers of Assessment, collection and enforcement set forth in Articles VI, VII and VIII, the club and Association may exercise any and all rights and powers set forth in Articles of Incorporation or hereinafter enumerated together with any and all additional rights and powers which are necessary, useful or desirable in connection with the management and/or operation of Subdivision and the maintenance of Subdivision in a first class condition, or in connection with the enforcement and effectuation of any of the provisions of this Declaration, the Bylaw or the rules and regulations adopted by the Board.
- 14.04 Reserved Area Maintenance. The Club and Association shall provide and pay for the care, operation, management and repair of the appropriate Reserved Area without limiting the generality of the foregoing and by way of illustration, said obligations shall include the keeping of the Reserved Area in good, clean, attractive and sanitary order and repair; renewing and replacing all or any portion of the landscaping, gardens and green areas within the Reserved Area. Nothing herein shall be construed as waiving any right of the Club or Association to recover for any damage or expense incurred by the Club or Association as the result of the willful or negligent action or lack of action of any person.
- 14.05 Other Club and Association Functions. The Club or Association may undertake any activity, function or service for the benefit or to further the interest of all, some or any Lot. Owners on a self-supporting special Assessment or common Assessment basis without limiting the generality of the foregoing, such activities, functions or services may include the providing of police or some other security service.
- 14.06 Rules and Regulations. The Board may make and enforce reasonable and uniformly applied rules and regulations governing the use, occupancy and maintenance of all Reserved Areas within the Subdivision. Such Rules and Regulations may without limitation regulate the use of Reserved Areas to assure equitable use and enjoyment by all Persons entitled thereto. The Club and Association, as the case may be, shall furnish to each Owner of a Lot and record holder of an institutional Mortgage which affects a Lot a copy of the Club's or Association's Rules and Regulations upon written request therefore and shall so furnish a copy of all proposed changes to such Rules and Regulations prior to the adoption of such changes. A written copy of such Rules and Regulations shall be available for inspection by the Owners of a Lot and record holders of Institutional Mortgages, which affects a Lot at reasonable hours. The Club or Association may suspend any Owner's voting rights in the Club or Association during any period or periods that such Owner fails to comply with such Rules and Regulations or the Bylaws. Such Rules and Regulations shall be binding upon each Owner of a Lot and the members of his family, his tenants, guests, employees, servants, invitees and all other persons having access to any part of the Reserved Area. The Club or Association may also take judicial action against any Owner to enforce compliance with such Rules and Regulations or other obligations, rights or privileges under this Declaration or the Bylaws.
- 14.07 Implied Rights. The Club and Association shall have and may exercise any right or privilege granted to it expressly by this Declaration or the Bylaws or reasonably to be implied from this Declaration or Bylaws or given or implied by law or which may be desirable, necessary or useful to fulfill its duties, responsibilities, obligations, rights or privileges under this Declaration or the Bylaws.
- 14.08 Right of Maintenance. In the event any Owner of a Lot shall fail to keep and maintain the exterior of his Home as provided in this Declaration, the Declarant shall have the right and power to enter upon the Owner's lot to place said Home in the condition required pursuant to this Declaration. The cost of so doing together with overhead and administrative costs shall be paid for by the Owner of such Home and may be assessed by the Club or Association as an Extraordinary Assessment as herein provided.
- 14.09 Willful or Negligent Acts. In the event that any maintenance, repair or other work is required because of the willful or negligent action or lack of action of any Owner, his family, guests, tenants, or invitees, the Club or Association may perform such work or cause the same to be performed at such Owner's cost and expense and may make an Extraordinary Assessment to recover payment thereof provided, except in the event of an emergency, such Owner shall be given ten (10) days prior notice within which to perform the required maintenance, repair or work.

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ARTICLE XV

USE RESTRICTIONS

All Properties. Except with respect to Exempt Property, including the Declarant Land, all Lots, within the Property are hereby restricted as follows:

- A. Antennas. No exterior television, radio, or other antenna or satellite dish of any type shall be placed, allowed or maintained upon any Lot or Dwelling Unit without prior written approval and authorization of the Declarant. There shall be no free standing antennas or satellite dishes. Antennae located upon a Dwelling Unit shall be located behind, and not higher than, the center ridge line of the roof of the Dwelling Unit and shall not be located on that portion of the roof of a Dwelling unit fronting on a street, and shall be placed so that same are not visible from any street.
- B. Storage, Parking and Repair of Vehicles.
 - (1) Prohibited Vehicles. None of the following vehicles may at any time be parked or stored on any Lot or street within the subdivision: (a) any truck larger than a three-quarter (3/4) ton pickup, (b) bus, (c) unused or inoperable automobile (d) recreational vehicles in excess of 20 feet in length and (e) mobile home.
 - (2) Vehicles Stored Only in Garage or Screened Area. None of the following vehicles may be stored on any Lot or any street within the Subdivision unless stored in the garage of the Dwelling Unit or stored in accordance with the subsection C of this Article XVI, to wit: (a) boat or boat rigging; (b) trailer; (c) recreational vehicle 20 feet or less in length; or (d) unmounted pickup camper unit.
 - (3) Storage of Operable Vehicles and Use of Garage. Each Dwelling unit shall provide garage storage for not less than two (2) vehicles. No garage shall be used to store any material, which would prohibit the use of the garage for the storage of not less than two (2) vehicles. All vehicles shall be stored in the garage unless the Owner or his family members utilize vehicles in excess of the garage storage available (in no event less than storage for two (2) vehicles). Garage doors must remain closed except for ingress and egress of vehicles and during periods of maintenance and at other reasonable and necessary times.
 - (4) Repair of Vehicles and Temporary Parking. No vehicle, including but not limited to the vehicles described above, shall be parked in the grass portion of the yard of any Lot. No vehicle may be parked within any part of any street in the Subdivision for more than twenty-four (24) hours at a time and vehicles shall not be moved from place to place in the Subdivision to avoid the intent of this prohibition. No Owner of any Lot in the Subdivision or any visitor, tenant or guest of any Owner shall be permitted to perform work on automobiles or other vehicles in driveways or streets other than work of a temporary nature. For the purposes of the foregoing term, "temporary" shall mean that the vehicle shall not be worked on in driveways or streets or parked on any lot (except in the garage of the Dwelling unit) in excess of twenty-four (24) hours. On-street parking is restricted to approved deliveries, pick-up or short-time guests and invitees and shall be subject to such reasonable rules and regulations as shall be adopted by the Declarant.
- C. Storage. No storage of any items of any kind shall be permitted, except with prior written approval and authorization of the Declarant. Any such storage as is approved and authorized shall be in areas attractively screened or concealed (subject to all required approvals as to architectural control) from view from neighboring property, Dwelling Units, pathways, and streets. This provision shall apply, without limitation, to woodpiles, camping trailers, boat trailers, travel trailers, recreation vehicles, boats, mobile homes, and unmounted pick-up camper units. Also, without limitation, no automobile, truck, or other vehicle, regardless of ownership, age, condition, or appearance, shall remain on any Lot in any manner which could be construed as being stored, neglected, abandoned or otherwise not in frequent use, except pursuant to written approval and authorization of the Declarant.
- D. Building Material Storage. No Lot shall be used for the storage of any materials whatsoever, except that material used in the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced. Building

DECLARATION OF COVENANTS

material may remain on Lots for a reasonable time, so long as the construction progresses without undue delay, after which time these materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. Under no circumstances shall building material be placed or stored on the street paving.

- E. Garbage. No garbage or trash shall be placed at the exterior of any building, except in containers meeting the specifications of the Declarant, and the placement, maintenance, and appearance of all such containers shall be subject to reasonable rules and regulations of the Declarant. All rubbish, trash, and garbage shall be regularly removed from each Lot and shall not be allowed to accumulate thereon.
- F. Outside Lighting. No outside lighting, other than indirect lighting, shall be placed, allowed, or maintained on any Lot without prior written approval and authorization of the Declarant.
- G. Animals. No animals, reptiles, fish, or birds of any kind shall be raised, bred, or kept on any Lot except pursuant to prior written approval of and in accordance with rules and regulations promulgated by the Declarant, provided, however, that dogs, cats, birds, or fish may be kept thereon as household pets so long as, in the discretion of the Declarant, such pet is not, or does not become, a nuisance, threat, or otherwise objectionable to other Owners. Unless fenced within the Lot of the Owner, any household pet shall be kept on a leash at all times that they are within the Subdivision and outside of the Dwelling Unit.
- H. Re-subdivision. No Lot shall be further subdivided and no portion less than all of any such Lot, or any easement or other interest therein, shall be conveyed by any Owner without the prior written authorization and approval of the Declarant.
- I. Diseases and Insects. No Owner shall permit any thing or condition to exist upon any Lot, which shall induce, breed, or harbor plant disease or noxious insects.
- J. Sidewalk Encroachments. No tree, shrub, or plant of any kind on any Lot shall be allowed to overhang or otherwise encroach upon any sidewalk or any other pedestrian way from ground level to a height of seven (7) feet without the prior written approval and authorization of the Declarant.
- K. Machinery, Fixtures, and Equipment. No machinery, fixtures, or equipment of any type, including without limitation, air conditioning or refrigeration equipment and clothes lines, shall be placed, allowed, or maintained upon the ground on any Lot, except with prior written approval and authorization of the Declarant in areas attractively screened or concealed (subject to all required approvals as to architectural control) from view of neighboring property, dwelling units, pathways, and streets, and no such machinery, fixtures, or equipment shall be placed, allowed, or maintained anywhere other than on the ground (such as on the roof) except if screened or concealed (subject to all required approvals as to architectural control) in such manner that the screening or concealment thereof appears to be part of the integrated architectural design of the building and does not have the appearance of a separate piece or pieces of machinery, fixtures, or equipment.
- L. Utility and Service Lines. No gas, electric, power, telephone, water, sewer, cable television, or other utility or service lines of any nature or kind shall be placed, allowed, or maintained upon or above the ground on any Lot, except to the extent, if any, underground placement thereof may be prohibited by law or would prevent the subject line from being functional. The foregoing shall not prohibit service pedestals and above ground switch cabinets and transformers where required.
- M. Burning and Incinerators. No open fires shall be permitted on any Lot at any time, and no incinerators or like equipment shall be placed, allowed, or maintained upon any Lot. The foregoing shall not be deemed to preclude the use, in customary fashion, of outdoor residential barbecues or grills.
- N. Signs. No exterior signs or advertisements of any kind may be placed, allowed, or maintained on any Lot without prior approval and authorization of the Declarant, except that mailboxes, residential nameplates, "for sale" and "for rent" signs, and signs designating the contractor of the Dwelling Unit upon such Lot may be placed and maintained in conformity with such common specifications, including without limitation, reasonable restrictions as to size, as may be adopted by the Declarant. The right is reserved by Declarant to construct and maintain, or to allow builders within the Subdivision to construct and maintain, signs, billboards and advertising devices as is customary in connection with the sale of newly constructed residential dwellings. The Declarant shall have the right to erect identifying signs at each entrance to the Subdivision.

DECLARATION OF COVENANTS

- O. Repairs. No repairs of any detached machinery, equipment, or fixtures, including without limitation motor vehicles, shall be made upon any portion of any Lot within view of neighboring property, dwelling units, pathways, and streets, without prior written approval and authorization of the Declarant.
- P. Oil, Gas, and Mineral Activity. With respect to the Property as defined herein, it is expressly provided that no oil or gas exploration, drilling, development, or refining operations and no quarrying or mining operations of any kind, including oil wells, surface tanks, tunnels, or mineral excavations or shafts shall be permitted or pursued by an Owner other than Declarant upon or under any Lot; and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted on any Lot, provided, however, that with respect to any outstanding mineral interest owned by any person or entity as of the date hereof such restrictions on exploration, drilling, development, refining, mining, and quarrying shall not be effective. Notwithstanding anything to the contrary stated herein however, as to any mineral interest which Declarant owns with respect to the Property, Declarant reserves the right to explore, drill, develop, refine, mine, and quarry any minerals in, on or under the Property or such additional land provided however any such activities shall be subject to (i) Declarant's obtaining whatever permits or licenses are required from the city of Tyler, Texas and (ii) Declarant's pursuing such activities in such a manner so as to not disrupt the surface rights of any Owner and the Lot(s) owned by such Owner.
- Q. Septic Tanks and Sewage Disposal. No septic tank or other means, of sewage disposal may be installed unless previously approved in writing by all governmental authorities having jurisdiction with respect thereto, and by the Declarant. No outside toilets of any kind are permitted, except during the period of construction of a Dwelling Unit, during which time chemically treated outside toilets shall be maintained in a manner subject to Declarant's approval; and no installation of any type of devise for disposal of sewage shall be allowed which would result in raw or untreated or unsanitary sewage being carried into any body of water or water source.
- R. Water Wells. At no time shall the drilling, usage or operation of any water well be permitted on any Lot.
- S. Firearms and Weapons. No Lot or any other portion of the Property shall be used or permitted for hunting or for the discharge of any pistol, rifle, shotgun, or any other firearm, or any bow and arrow or any other devise capable of killing or injuring.
- T. Motor Vehicles. The operation of any and all motorized vehicles within the Property shall be subject to such rules and regulations as shall from time to time be established by Declarant.
- U. Permitted Hours for Construction Activity. Except in an emergency or when other unusual circumstances exist, as determined by the Architectural Control Committee, outside construction work or noisy interior construction work shall be permitted only between the hours of 7:00 A.M~ and 10:00 P.M.
- V. Storage Building. No storage building of any type may be constructed or maintained on any Lot within the Subdivision. Temporary buildings or structures of any nature shall not be permitted on any Lot. Declarant may permit temporary toilet facilities, sales and construction offices and storage areas to be used in connection with the construction and the sale of residences. Builders in the subdivision may use garages as sales offices for the time during which such builders are marketing homes within the Subdivision. At the time of the sale of a residence by a builder, any garage appurtenant to such residence used for sales purposes must have been reconverted to a garage. No garage may be utilized as a storage facility, which prohibits or impedes its use for the storage of vehicles.
- W. Changes in Intended Use. No portion of the property may be developed or redeveloped otherwise than in accordance with its original intended use, without the prior written authorization of the Declarant.
- X. Misuse and Mismanagement. No Lot shall be maintained or utilized in such manner as to present an unsightly appearance (including but not limited to clothes drying within public view) or as to unreasonably offend the morale of or as to constitute a nuisance or unreasonable annoyance to, or as to endanger the health of, other Owners or residents of the Property; and no noxious or otherwise offensive condition or activity shall be allowed to exist or be conducted thereon.
- Y. Violation of Statutes, Ordinances, and Regulations. No Lot shall be maintained or utilized in such a manner as to violate any applicable statute, ordinance, or regulation of the United States of America the State of Texas, the County of Smith, the City of Tyler, or any other governmental agency or subdivision having jurisdiction over the Property.

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- Z. Violation of Rules or of Covenants, Conditions, or Restrictions. No Lot shall be maintained or utilized in violation of this Declaration or of the rules and regulations of the Declarant or of any covenants, conditions, or restrictions applicable to and binding upon said Lot.

ARTICLE XVI

TERMS, AMENDMENTS, TERMINATIONS

- 16.01 Term: Method of Termination. This Declaration shall be effective upon the date of recordation hereof and, as amended from time to time, shall continue in full force and effect to and including December 31, 2024. From and after said date, this Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the then Owners casting seventy-five percent (75%) of the total votes (each Owner other than Declarant having one vote per Lot owned with Declarant having three votes per Lot owned), present at the meeting held for such purpose within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension.
- 16.02 Amendments. This Declaration may be amended or changed in whole or in part at any time by obtaining (i) the affirmative vote of fifty-one percent (51%) of the total votes each Owner other than Declarant having one (1) vote per Lot owned with Declarant having three (3) votes per Lot owned present at a special meeting called pursuant to section 16.03, and (ii) if Declarant owns any property within the Master Plan Property, the written approval of the Declarant. If Declarant owns any property within the Master Plan Property, then no amendment of this Declaration may be effected without first obtaining the written consent of Declarant or its successors or assigns.
- 16.03 Election Procedures for Amendments and Termination. The affirmative votes required under section 16.01 or 16.02 shall be obtained and evidenced by the requisite vote by the Owners (Including Declarant) present at a meeting of Owners duly called by at least ten (10) Owners or by the Declarant pursuant to notice to all of the Owners on or prior to ten (10) days before the date of the meeting at which meeting the requisite percentage of owners, in person or by proxy, vote to so amend or terminate this Declaration (and the Covenants herein). The notice of the meeting must set forth the proposal as to amendment of this Declaration (and/or the Covenants contained herein) and such affirmative vote of the requisite percentage of Owners must be evidenced by minutes of the meeting duly certified by the Owners who called the meeting or the Declarant. In any event, a copy of the minutes must be delivered to the Declarant. There shall be no quorum requirements for any meetings held pursuant to this section.
- 16.04 Recording of Amendments. Upon the requisite percentage of Owners duly voting to amend this Declaration (and/or the Covenants contained herein) and upon the other conditions set forth in section 16.01 and 16.02 (as the case may be) and section 16.03 of this Article being satisfied, then this amendment shall be executed by the Declarant, placed in recordable form, and filed of record in the Real Property Records of Smith County, Texas, accompanied by a statement that the requisite percentage of Owners have voted to make such amendment to this Declaration.
- 16.05 Effect. Upon the filing of an amendment in accordance with section 16.04, this Declaration and the Covenants, as amended, shall remain in full force and effect.
- 16.06 Right of Amendment if Requested by Governmental Agency of Federally Chartered Lending Institutions. Anything in this Article to the contrary notwithstanding, Declarant reserves the right to amend all or any part of this Declaration to such an extent and with such language as may be requested by any federal, state, or local agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of the Property or any portion thereof. Any such amendment shall be effected by the recordation, by Declarant, of a certificate of Amendment signed by a duly authorized agent of Declarant, with his signature acknowledged, specifying the federal, state, or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such a certificate shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Certificate, when recorded, shall be binding upon the Property and all persons having an interest in the Property. Except as provided in this section 16.06, Declarant shall not have any right to amend this Declaration otherwise than in accordance with and pursuant to the provisions of section 16.02 hereof.

ARTICLE XVII

RESERVATION OF RIGHT TO RESUBDIVIDE AND REPLAT RESERVED AREA AND LOTS

Subject to the approval of any and all appropriate governmental agencies having jurisdiction, Declarant hereby reserves the right at any time while it is the Owner thereof to subdivide or

DECLARATION OF COVENANTS

resubdivide, as the case may be, and/or plat or replat, as tile case may be, all or any portion of Declarant Land, the Reserved Areas and any Lot or Lots without the consent of any Owner.

ARTICLE XVIII

OWNERSHIP OF UTILITIES, AMENITIES, AND RESEVED AREAS

All utilities, if any, constructed by Declarant (including without limitation all such water, gas, electricity, telephone, television, storm sewer or sanitary sewer lines, security systems, poles, pipes, conduits or other appurtenances or facilities) shall be owned by Declarant and, as to all or any part thereof, may be sold, transferred, conveyed, leased, dedicated, encumbered or in any manner alienated by Declarant at any time to any private or public entity on such terms and in such manner as Declarant in its sole discretion may determine.

ARTICLE XIX

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

- 19.01 Membership in Club or Association. Each Owner of a Lot, including the Declarant, shall be a Member of the Club and/or Association, but if the Owner of a Lot shall be more than one person, all such persons, collectively, shall be the Member with respect to that Lot. Membership shall be appurtenant to, and may not be separated from record ownership of a Lot and such membership shall automatically transfer to the new Owner upon any sale, transfer or other disposition of a Lot subject to the provisions hereof. There shall not be more than one Member for each Lot within the Addition. Upon any such transfer, sale or other disposition of all or some of the fee interest in a Lot, the then Owner shall automatically become a Member with respect to such Lot ownership of a Lot shall be the sole qualification for being a Member of the Club or Association, as the case may be.
- 19.02 Voting. Each Member other them Declarant shall be entitled to one (1) vote for each Lot as to which he is the Member In accordance with and subject to the provisions of this Article XIX and the Bylaws; Declarant shall be entitled to three (3) votes for each Lot as to which it is the Member. No Member other than Declarant shall have the right to vote until it shall deliver to the Secretary of the Club or Association, as the case may be (i) a certified copy of the recorded Deed or other recorded instrument establishing record title to the Lot and (ii) if the Member shall be more than one Person or a corporation, a written notice subscribed to by all of such persons or by such corporation, as the case may be, designating one of such Persons or officer of such corporation as the Person entitled to cast the vote with respect to such Lot; but all other obligations of the Owner of such Lot hereunder shall be unaffected, including without limitation, the right to use the Reserved Area and the obligation to pay Assessments. Notwithstanding anything in this Declaration, the Bylaws or the Articles to the contrary, no action may be taken by the Club or Association without the written consent of Declarant having first been obtained if Declarant then owns any property within the Master Plan Property.
- 19.03 Suspension of Voting Rights. In the event any Assessment against a Lot remains unpaid for a period of sixty (60) days beyond the due date thereof, the voting rights of the Owner of said Lot shall be suspended until such Assessment together with all interest and late charges has been paid.
- 19.04 Notices. Unless a greater period shall be specified in this Declaration, each member shall be entitled to at least fifteen (15) days notice of any meeting at which Members have the right to vote (except shorter notice may be given in the event of an emergency). Notices of meeting shall be in writing and shall state the date, time and place of the meeting and shall indicate each matter to be voted on at the meeting which is known to the Club or Association at the time notice of the meeting is given. Any notice shall be deemed given and any budget or other information or material shall be deemed furnished or delivered to any Member when deposited in the United States mails, postage prepaid, addressed "To the Owner," at the address of the Lot of such Member or personally delivered to the Member, whichever is earlier.

ARTICLE XX

INSURANCE

- 20.01 Insurance. All insurance, other than title insurance, carried in connection with the Reserved Area and the Improvements located thereof shall be governed by the provisions of this

DECLARATION OF COVENANTS

Article XX.

- 20.02 Insurance to be carried by Club and Association. The Club and Association shall obtain and maintain, to the extent obtainable, liability and other insurance deemed necessary by the Board in an amount deemed adequate by them. Each Owner shall be responsible for acquiring insurance on his Lot as he deems advisable against fire and other hazards in an amount, which adequately provides for the reconstruction of the premises in case of destruction.

ARTICLE XXI

DEVIATIONS

The Declarant may grant approval for deviations from the restrictions provided herein, so long as such deviations are generally consistent and harmonious with the remainder of the surrounding community and do not adversely affect the value of another lot. Such action shall not require the approval of the Club or Association or any Owner.

ARTICLE XXII

MISCELLANEOUS

- 22.01 Interpretation of the Covenants. Except for judicial construction, the Declarant shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Declarant's construction or interpretation of the provisions hereof shall be final, conclusive, and binding as to all persons and property benefited or bound by the Covenants and provisions hereof.
- 22.02 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.
- 22.03 Rule Against Perpetuities. If any interest, purported to be created by this declaration is challenged under the Rule against Perpetuities or, any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" for computing the period of perpetuities shall be (a) those which would be used in determining the validity of the challenged interest, plus (b) if applicable, those of the issue of the Declarant who are living at the time the period of perpetuities starts to run on the challenged interest.
- 22.04 Change of Circumstance. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstance shall operate to extinguish, terminate, or modify any of the provisions of this Declaration.
- 22.05 Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Declarant shall have the right to adopt rules and regulations with respect to all other aspects of the Declarant's rights, activities, and duties, provided said rules and regulations are not inconsistent with the provisions of this Declaration.
- 22.06 Declarant's Disclaimer of Representations. Anything to the contrary in this Declaration notwithstanding, and except as otherwise may be expressly set forth on a recorded plat or other instrument recorded in the Real Property Records of Smith County, Texas, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Property can or will be carried out, or that any land now owned or hereafter acquired by it is or will be subjected to this Declaration, or that any such land (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such land is once used for a particular use, such use will continue in effect.
- 22.07 Limitation of Liability. In the absence of gross negligence or willful misconduct attributable to Declarant or its successors or assigns, neither Declarant nor its successors or assigns shall have any liability arising out of the performance or nonperformance of any of the rights and powers reserved unto Declarant, its successors or assigns pursuant to this Declaration.
- 22.08 Successors and Assigns of Declarant. Any reference in this Declaration to Declarant shall include any successors or assigns of any of Declarant's rights and powers hereunder.
- 22.09 Gender and Number. Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter

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gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

- 22.10 Captions and Titles. All captions, titles, or headings of the Articles and sections in this Declaration are for the purpose of reference and convenience only, and are not to be deemed to limit, modify, or otherwise affect any of the provisions hereof, or to be used in determining the intent or context thereof.
- 22.11 Notices. Any notice required or permitted to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, delivery shall be deemed to have been made twenty-four (24) hours after a copy of the notice has been deposited in the United States mail, postage prepaid, registered or certified mail, addressed to each such person at the address given by such person to the party sending the notice or to the address of the Dwelling Unit of such person if no address has been given. Such address may be changed from time to time by notice in writing.
- 22.12 Prior Recorded Instruments. This Declaration and all of the provisions hereof are expressly subject to all prior recorded documents affecting the Property, including without limitation, the Reservation of Architectural Control as defined in Article I hereof.
- 22.13 Enforcement of the Covenants. Notwithstanding anything to the contrary herein, in the event of any violation or attempted violation of any of the provisions hereof, including any of the Covenants, enforcement shall be authorized by any proceedings at law or in equity against any person or persons violating or attempting to violate any of such provisions, including proceedings to restrain or prevent such violation or attempted violation by injunction, whether prohibitive in nature or mandatory in commanding compliance with such provisions; and it shall not be a prerequisite to the granting of any such injunction to show inadequacy of legal remedy or irreparable harm. Likewise, any person entitled to enforce the provisions hereof may recover such damages as such person has sustained by reason of the violation of such provisions.
- 22.14 Suspension of the Covenants. The Declarant shall have the right during the period of construction, development, and sale, to grant reasonable and specifically limited exemptions from the Covenants to Declarant and any other developer or contractor. Any such exemptions shall be granted only upon specific written request, itemizing the exemption requested, the location thereof, the need therefore, and the anticipated duration thereof; and any authorization and approval thereof shall be similarly itemized. No such exemption shall be broader in terms of activity, location, or time than is reasonably required.

DECLARATION OF COVENANTS

IN WITNESS WHEREOF, the undersigned have hereunto caused their names to be signed by the signature of their duly authorized official as of the day and year first above written.

WHEELER INTERESTS, INC.,
a Texas corporation

By: _____
Kenneth W. Wheeler, President

WHEELER DEVELOPMENT COMPANY,
a Texas corporation

By: _____
Kenneth W. Wheeler, President

STATE OF TEXAS

COUNTY OF SMITH

This instrument was acknowledged before me on the ____ day of June 1994, by. Kenneth W. Wheeler, as President of Wheeler Interest, Inc., a Texas corporation, on behalf of said Corporation.

NOTARY PUBLIC, STATE OF TEXAS

STATE OF TEXAS

COUNTY OF SMITH

This instrument was acknowledged before me on the ____ day of June 1994, by. Kenneth W. Wheeler, as President of Wheeler Development Company, a Texas corporation, on behalf of said Corporation.

NOTARY PUBLIC, STATE OF TEXAS

DECLARATION OF COVENANTS

COPY

95-RO034169

**AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS,
ASSESSMENTS, CHARGES, SERVITUDES, LIENS, RESERVATIONS,
AND EASEMENTS (SINGLE FAMILY)
OAK TREE VILLAGE AT THE WOODS, UNITS I, II, III, & IV**

This Amendment to Declaration of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations, and Easements (Single Family) Oak Tree Village at the Woods, Units I, II, III, & IV is made as of the 13th day of October, 1995, by the undersigned, herein called "Declarant".

WITNESSETH:

WHEREAS, on June 1, 1993, Oak Tree Development Company, a Texas Partnership, executed a Declaration of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations, and Easements (Single Family) Oak Tree Village at the Woods, Unit I, (the "Declaration"), filed in the Land Records of Smith County, Texas, at Volume 3372, Page 608; and

WHEREAS, on December 14, 1993, Oak Tree Development Company, a Texas Partnership, and Wheeler Development Company, a Texas corporation, executed a First Supplemental Declaration of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations, and Easements (Single Family) Oak Tree Village at the Woods, Units I & II, filed in the Land Records of Smith County, Texas, at Volume 3454, Page 403; and

WHEREAS, on December 15, 1994, Wheeler Interests, Inc., a Texas corporation, Wheeler Development Company, a Texas corporation, and Robert Gary Root executed a Second Supplemental Declaration of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations, and Easements (Single Family) Oak Tree Village at the Woods, Units I, II, and III, filed in the Land Records of Smith County, Texas, at Volume 3605, Page 256; and

WHEREAS, contemporaneously with the execution and filing of this Amendment to Declaration, the undersigned have filed in the Land Records of Smith County, Texas, a Third Supplemental Declaration of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations, and Easements (Single Family) Oak Tree Village at the Woods, Units I, II, III, & IV (the "Third Supplemental Declaration"), the purpose of which was to subject the property located within Oak Tree Village at the Woods, Unit IV, to the covenants, conditions, and restrictions of the Declaration; and

WHEREAS, the undersigned being the owner of all of the property located within Unit IV, desires to amend the Declaration but only as to property included within Unit IV.

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the Declaration is hereby amended as follows, and as it applies to the lots in said subdivision as owned by the undersigned:

1. Paragraph 4.02 of the hereinabove Declaration relating to "Types of Structures" is hereby amended to add the following sentence:

"Such garage for each Lot shall be a side-entry or rear-entry garage."

2. Paragraph 4.09 of the hereinabove Declaration relating to "Roof Materials" is hereby amended to read as follows:

"Roofs of all Dwelling Units shall be constructed so that the exposed material is of a composition material of not less than 240 LB., 25 year warranty and a color acceptable to the Architectural Control Committee. All shingles used in the construction of a Dwelling Unit must be of a quality or grade equal to or higher than Prestique II; no wood shingles shall be allowed."

3. Paragraph 4.03 of the hereinabove Declaration relating to "Minimum Square Footage" is hereby amended to add the following:

"The living area of each residence (exclusive of porches, patios, garages, terraces, or driveways) on each of the following Lots shall be not less than 1,750 square feet, to-wit:

Lots 23 thru 33, Block 1441-D
Lots 6 thru 9, 15 thru 24, and 30 and 31, Block 1441-G
Oak Tree Village at the Woods, Unit IV;

"The living area of each residence (exclusive of porches, patios, garages, terraces, or driveways) on each of the following Lots shall be not less than 1,900 square feet, to-wit:

Lots 10 thru 14, 25 thru 29, Block 1441-G
Oak Tree Village at the Woods, Unit IV."

4. Paragraph 4.05 of the hereinabove Declaration relating to "Walls, Fences, Hedges, and Other Screening Material", the next to the last sentence of said paragraph is modified to read as follows:

"Notwithstanding the foregoing, no wall, fence, planter, hedge or other screening material shall be permitted on any lot adjoining a Greenbelt which would unduly interfere with the view from any other lot or Greenbelt, as determined by the sole discretion of the Architectural Control Committee or Declarant, Wheeler Development Company."

The following sentences are added to Paragraph 4.05:

"On such lots adjoining a Greenbelt, materials used to construct any fence shall be only of wrought iron or lattice-brick construction, and shall be approved in writing by the Architectural Control Committee or Declarant, Wheeler Development Company, prior to construction. No wall, fence or planter may be constructed of "Keystone" blocks or like materials."

5. Paragraph 4.17 of the hereinabove Declaration relating to "Retaining Walls", the last sentence of said paragraph is modified to read as follows:

"No cross-ties, landscaping timbers, or "Keystone" blocks or like materials may be used for this purpose within the Subdivision."

6. Paragraph 4.27 of the hereinabove Declaration relating to "Trees" is modified to read as follows:

"Every effort shall be made to protect as many trees as possible within the subdivision and each lot owner is encouraged to design their residence so as to accomplish this purpose. Prior to construction, each lot owner shall meet on site with the Declarant, Wheeler Development Company, or its representative to designate those trees that will not be removed. Declarant, Wheeler Development Company or its representative shall make the final decision as to which trees shall remain. Once so designated, those trees shall not be removed without the consent of the Declarant, Wheeler Development Company, or its representative. The Declarant, Wheeler Development Company, shall be notified by the lot owner or his representative prior to site preparation as to when such site preparation shall take place, and the Declarant, Wheeler Development Company, or its representative has the right to be present at the time of such preparation. If any lot owner fails to comply with this section, such failure to comply shall be deemed improper maintenance under provisions herein, and Declarant, Wheeler Development Company, or the Woods Garden Club, Inc., shall have the remedies provided for herein to cure such default."

7. Paragraph 7.02 of the hereinabove Declaration relating to "Annual Assessments", the annual assessment is modified to read "Three Hundred (\$300.00) Dollars per Lot".

8. A new ARTICLE XXV, PRIOR APPROVAL OF PLANS AND BUILDER/CONTRACTOR, is added as follows:

"No building, fence, wall, sign, exterior light, or other structure or apparatus, either permanent or temporary shall be commenced, erected, placed, or maintained upon any Lot constituting a portion of the Property, nor shall any exterior addition thereto, change therein or alteration, excavation, subdivision or resubdivision thereof, including without limitation changes in or alteration of grade, landscaping, roadways, and walkways, be made until the proposed builder/contractor and the plans and specifications (showing the nature, kind, shape, height, materials, color, location, and other material attributes of the same) shall have been submitted to and approved in writing by Declarant or by an Architectural Control Committee appointed by Declarant (or its successor). Such approval as to the builder/contractor shall take into consideration, but such is not necessarily limited to, the reputation and experience of the builder/contractor. Such approval as to the plans and specifications shall take into consideration (i) compliance with the Covenants herein contained, and (ii) harmony of external design and location in relation to surrounding structures and topography which are now or hereafter existing or proposed, including, but not by way of limitation, as to architectural designs, setbacks, landscaping, color schemes and construction materials. In the event Declarant or the Architectural Control Committee, fails to approve or disapprove such builder/contractor, design and location within thirty (30) days after such have been submitted to it, approval will not be required, and such Applicant shall be deemed to have fully complied with this Article. Non-exercise of the powers hereby reserved by Declarant or the Architectural Control Committee in one or more instances shall not be deemed to constitute a waiver of the right to exercise such power in other or different instances. Likewise, approval of any one set of plans and specifications shall not be deemed to constitute approval of any other or different plans and specifications. In the absence of gross negligence or willful misconduct attributable to Declarant or an architectural committee appointed by Declarant or its successor, neither Declarant nor such architectural committee shall be liable for the improper enforcement or failure to exercise any of the powers reserved unto Declarant pursuant to this Article. In no event shall any approval obtained from Declarant or such architectural committee pursuant to the terms of this Article, be deemed to be a representations of any nature regarding the structural safety or engineering soundness of the structure or other item for which such approval was obtained; nor shall such approval represent in any manner compliance with any building or safety codes, ordinances or regulations; nor shall such approval be construed as a representation or warranty as to any matter which is the subject of such approval."

Except as expressly modified hereby, the Declaration shall remain in full force and effect as originally written and amended.