

M854815

AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
GETTYSBURG, SECTION ONE

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

WHEREAS, that certain subdivision known as Gettysburg, Section One (the "Subdivision") was platted of record in the Office of the County Clerk of Harris County, Texas, at Volume 272, Page 104 of the Map Records of Harris County, Texas; and

WHEREAS, by instrument entitled Declaration of Covenants, Conditions and Restrictions dated December 14, 1978, executed by Downing & Wooten Enterprises, Inc., a corporation, and filed in the Deed Records of Harris County, Texas, under County Clerk's File No. F892695, as amended pursuant to that certain Amended Declaration of Covenants, Conditions and Restrictions, Gettysburg, Section One, recorded under County Clerk's File No. L600991 in the Official Public Records of Real Property of Harris County, Texas, certain covenants, conditions and restrictions were adopted to apply uniformly to the use, occupancy and conveyance of lots in the Subdivision for the benefit of present and future Owners (as hereinafter defined) of said Lots (as hereinafter defined) (the "Original Restrictions"); and

WHEREAS, it is the desire of the Association to provide for the preservation of the values and amenities in such subdivision and, to this end, to subject the Lots therein to the covenants, conditions and restrictions hereinafter set forth for the benefit of the Lots and the owners thereof;

WHEREAS, the Association hereby declares that the above described Lots are held, and shall hereafter be conveyed subject to the covenants, conditions and restrictions as hereinafter set forth. These covenants, conditions and restrictions shall run with said Lots and shall be binding upon all parties having or acquiring any right, title or interest in said Lots or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

WHEREAS, pursuant to the Original Restrictions, same may be amended by an instrument executed by two-thirds (2/3) of the Owners within the Subdivision; and

WHEREAS, the undersigned desire to amend and restate the Original Restrictions in their entirety;

NOW, THEREFORE, the undersigned, the record owners of the fee simple title to Lots located in the Subdivision as described below their signature and constituting more than two-thirds (2/3) of the Owners within the Subdivision, do hereby in this Amended and Restated Declaration of Covenants, Conditions and Restrictions (the "Amended and Restated Declaration") amend and restate the Original Restrictions as follows:

ARTICLE I
DEFINITIONS

The following words, when used in this Amended and Restated Declaration, shall have the following meanings:

Section 1. "*Association*" shall refer to the Gettysburg Homeowners Association, Inc., a Texas non-profit corporation, its successors and assigns.

Section 2. "*Builder*" shall refer to any person or entity undertaking the construction of a residence on a Lot.

Section 3. "*Collector Street*" shall refer to any street which is not a cul-de-sac.

Section 4. "*Community Properties*" shall refer to any properties, real or personal, hereafter conveyed to or otherwise acquired by the Association for the common use and enjoyment of the Members of the Association.

Section 5. "*Corner Lot*" shall refer to a Lot which abuts on more than one Street. Any Lot, except a Corner Lot, is deemed to front the Street upon which it abuts. A Corner Lot shall be deemed to front on the side of the Lot having the deepest building setback line, as designated by the Subdivision Plat.

Section 6. "*Declarant*" shall refer to Downing & Wooten Enterprises, Inc., a Texas corporation, its successors and assigns.

Section 7. "*Lot*" shall refer to any of the numbered lots shown on the Subdivision Plat.

Section 8. "*Member*" shall refer to every person or entity which holds a membership in the Association.

Section 9. "*Owner*" shall refer to the owner, whether one or more persons or entities, of the fee simple title to any Lot, but shall not refer to any person or entity holding a lien, easement, mineral interest, or royalty interest burdening the title thereto.

Section 10. "*Street*" shall refer to any street, drive, boulevard, road, alley, lane, avenue, or any thoroughfare as shown on the Subdivision Plat.

Section 11. "*Subdivision*" shall refer to Gettysburg, Section One, as set forth in the map or plat thereof recorded in Volume 272, Page 104 of the Map Records of Harris County, Texas.

Section 12. "*Subdivision Plat*" shall refer to the recorded map or plat of the Subdivision.

Section 13. "*Restrictions*" shall refer to all covenants and restrictions contained in this Amended and Restated Declaration.

ARTICLE II
ARCHITECTURAL CONTROL COMMITTEE

Section 1. Creation, Purpose and Duties. There is hereby created an Architectural Control Committee (herein referred to as the "Committee") comprised of the Board of Directors of the Association. The Committee shall be responsible for enforcing and maintaining the architectural integrity of improvements constructed on Lots and the quality of workmanship and materials utilized in the construction of such improvements in conformance with the Restrictions. A majority of the Committee may designate one member to act for it. In the event of the death or resignation of any person serving on the Committee, the remaining person(s) serving on the Committee shall designate a successor, or successors, who shall have all of the authority and power of his or their predecessor(s). Until such successor member or members shall have been so appointed, the remaining member or members shall have full authority to approve or disapprove plans, specifications and plot plans submitted or to designate a representative with like authority.

No person serving on the Committee shall be entitled to compensation for services performed, however, the Committee may employ one or more architects, engineers, attorneys, or other consultants to assist the Committee in carrying out its duties hereunder, and the Association shall pay such consultants for services rendered to the Committee.

Section 2. Powers of the Committee. No building or other improvements shall be constructed in the Subdivision, no clearing of Lots shall be commenced, and no exterior alteration therein shall be made until the site plan, the schematic plan for landscaping and lighting, and the final design plans (including the general specifications, floor plan and elevation) have been submitted to and approved in writing by the Committee as to conformity and harmony of external design and location in relation to surrounding structures and topography and as to quality of materials in conformance with the Restrictions. In the event the Committee fails to approve or disapprove the site plan, schematic plan and design plans within fifteen (15) business days after submission to the Committee, approval thereof shall be deemed to have been given.

The Committee shall have full power and authority to reject any plans and specifications that do not comply with the Restrictions or that are not compatible with the overall character and aesthetics of the Subdivision. The Committee shall have the right to

grant variances to the Restrictions in specific instances where the Committee in good faith deems that such variance does not adversely affect the architectural and environmental integrity of the Subdivision.

No construction of a building, structure, fence, wall, or other improvement shall be commenced until the Builder for such Lot has been approved, as provided for in this paragraph, in writing by the Committee. The Builder (or the person or entity controlling the Builder) shall have a local operative construction office within a one hundred (100) mile radius of the Subdivision. The Builder shall have an experience record of no less than three (3) years in the successful design and construction of "custom-built" homes as defined herein. The Builder shall be prepared to provide evidence of this history as a condition of approval. In the event the Committee fails to specifically approve or disapprove a Builder within fifteen (15) business days after his name is submitted to it, approval thereof shall be deemed to have been given.

If in the opinion of the Committee the exterior of any residence is in need of repair or maintenance, the Committee shall notify the Owner thereof in writing of the need of such repairs or maintenance, and if such repairs or maintenance are not accomplished within thirty (30) days of said date, then the Committee may proceed to have such repairs or maintenance work done for the account of and payment by the Owner, and the Owner shall pay upon demand the Committee's cost, together with interest at the lesser of (i) eighteen percent (18%) per annum or (ii) the maximum rate of interest allowed by applicable law until such payment is made, and reasonable attorney's fees if referred to an attorney for collection.

ARTICLE III
GETTYSBURG HOMEOWNERS ASSOCIATION. INC.

Section 1. Organization. Declarant has caused the Association to be organized and formed as a non-profit corporation under the laws of the State of Texas. The principal purposes of the Association are the collection, expenditure, and management of the maintenance charge funds, enforcement of the Restrictions, providing for the maintenance, preservation and architectural control within the Subdivision, the general overall supervision of all of the affairs and wellbeing of the Subdivision and the promotion of the health, safety, and welfare of the residents within the Subdivision.

Section 2. Board of Directors. The Association shall act through a Board of not less than three (3) Directors, which shall manage the affairs of the Association as specified in this Amended and Restated Declaration and the By-Laws of the Association.

Section 3. Membership. Every Owner of a Lot shall be a member of the Association. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of the land which is subject to assessment by the Association and shall automatically pass with the title to the Lot.

Section 4. Voting. Members shall be all Owners and shall be entitled to one vote for each Lot owned. When more than one individual or entity holds an ownership interest in a Lot, all such persons shall be Members, but in no event shall they be entitled to cast more than one vote with respect to that particular Lot.

ARTICLE IV
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments. The Declarant, for each Lot within the Subdivision which shall be or thereafter become subject to the assessments hereinafter provided for, hereby covenants, and each Owner of any Lot which shall be or thereafter become assessable, by acceptance of Deed therefor, whether or not it shall be expressed in the Deed or other evidence of the conveyance, is deemed to covenant and agree to pay the Association the following:

- (a) Annual assessments or charges; and
- (b) Special assessments.

Such assessments or charges are to be fixed, established and collected as hereinafter provided. These charges and assessments, together with such interest thereon and cost of collection thereof, as hereinafter provided, shall be a charge on the land and shall be secured by a continuing Vendor's Lien upon the Lot against which such assessments or charges are made. Each such assessment or charge, together with such interest, costs, and reasonable attorney's fees shall also be and remain the personal obligation of the individual or individuals who owned the particular Lot at the time the assessment or charge fell due notwithstanding any subsequent transfer of title to such Lot. The personal obligation for delinquent assessments and charges shall not pass to successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the subdivision. Without limiting the foregoing, the total assessments accumulated by the Association, insofar as the same may be sufficient, shall be applied toward the payment of all taxes, insurance premiums and repair, maintenance and requisition expenses incurred by the Association and at the option of the Board of Directors of the Association for any and all of the following purposes: lighting, improving and maintaining streets, alleyways, sidewalks, paths, parks, parkways, and esplanades in the Subdivision; collecting and disposing of garbage, ashes, rubbish and materials of a similar natures; payment of legal and all other expense incurred in connection with the collection, enforcement and administration of all assessments and charges and in connection with the enforcement of this Amended and Restated Declaration, employing policemen or watchmen and/or a security service; fogging and furnishing other general pesticide services; providing for the planting and upkeep of trees and shrubbery on esplanades and in the Community Properties; acquiring and maintaining any amenities or recreational facilities that are or will be operated in whole or in part for the benefit of the Owners; and doing any other

thing necessary or desirable in the opinion of the Board of Directors of the Association to keep and maintain the property in the Subdivision in neat and good order, or which they consider of general benefit to the Owners or occupants of the Subdivision, including the establishment and maintenance of a reserve for repair, maintenance, taxes, insurance, and other charges as specified herein. The judgment of the Board of Directors of the Association in establishing annual assessments, special assessments and other charges and in the expenditure of said funds shall be final and conclusive so long as said judgment is exercised in good faith.

Section 3. Basis and Maximum Level of Annual Assessments. The maximum annual assessment for 1990 as determined by the Board of Directors is \$260.00 for each developed Lot and \$130.00 for each undeveloped Lot. The maximum annual assessment may be increased by the Board of Directors of the Association, effective the first day of January of each year, in conformance with the rise, if any, in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Department of Labor, Washington, D.C., or any successor publication, for the preceding month of July or alternatively, by an amount equal to a ten percent (10%) increase over the prior years annual assessment, whichever is greater, without a vote of the Members of the Association. The maximum annual assessment may be increased above that established by the Consumer Price Index formula or the abovementioned percentage increase only by written approval of two-thirds (2/3) of the Members of the Association. In lieu of notice and a meeting of Members as provided in the By-Laws of the Association, a door to door canvas may be used to secure the required written approval of the Members for such increase in the annual assessment or in the special assessment as provided below. This increase shall become effective on the date specified in the document evidencing such approval only after such document has been filed for record in the Office of the County Clerk of Harris County, Texas. After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at an amount not in excess of the maximum amount approved by the Members.

Section 4. Special Assessments. In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, provided that any such assessment shall have the written approval of two-thirds (2/3) of the Members of the Association.

Section 5. Rates of Assessment. Both annual and special assessments on all Lots, shall be fixed at uniform rates provided, however, the rate applicable to Lots that are owned by a Builder and are not occupied as residences shall be equal to one-half (1/2) of the full assessment as set by the Board of Directors of the Association. The rate of assessment for each Lot shall change as the character of ownership and the status of occupancy changes.

Section 6. Date of Commencement and Determination of Annual Assessment. The annual assessment provided for herein shall commence as to all Lots on a date fixed by the Board of Directors of the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. On or before the 30th

day of November in each year, the Board of Directors of the Association shall fix the amount of the annual assessment to be levied against each Lot in the next calendar year. Written notice of the figure at which the Board of Directors of the Association has set the annual assessment shall be sent to every Owner whose Lot is subject to the payment thereof. Each annual assessment shall be due and payable in advance on the first day of January of each calendar year. The Association shall, upon demand, and for reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a particular Lot is binding upon the Association as of the date of its issuance.

Section 7. Effect of Nonpayment of Assessments: Remedies of the Association.

Any assessments or charges which are not paid when due shall be delinquent. If an assessment or charge is not paid within thirty (30) days after the due date, it shall bear interest from the due date at the lesser of (i) eighteen percent (18%) per annum or (ii) the maximum rate of interest allowed by applicable law, and the Association may bring an action at law against the Owner personally obligated to pay the same, or to foreclose the Vendor's Lien herein retained against the Lot. Interest, costs and reasonable attorney's fees incurred in any such action shall be added to the amount of such assessment or charge. Each such Owner, by his acceptance of a Deed of a Lot, hereby expressly vests in the Association or its agents the right and power to bring all actions against such Owner personally for the collection of such assessments and charges as a debt and to enforce the Vendor's Lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien foreclosure on real property, and such Owner expressly grants to the Association a power of sale and non-judicial foreclosure in connection with the Vendor's Lien. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Community Properties or abandonment of his Lot.

Section 8. Subordination of the Lien to Mortgages. As hereinabove provided, the title to each Lot shall be subject to the Vendor's Lien securing the payment of all assessments and charges due the Association, but the Vendor's Lien shall be subordinate to any valid purchase money lien or valid lien securing the cost of construction of home improvements. Sale or transfer of any Lot shall not affect the Vendor's Lien provided, however, the sale or transfer of any Lot pursuant to a judicial or non-judicial foreclosure under the aforesaid superior liens shall extinguish the Vendor's Lien securing such assessment or charge as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot or the Owner thereof from liability for any charges or assessments thereafter becoming due or from the lien thereof. In addition to the automatic subordination provided for hereinabove, the Association, in the discretion of its Board of Directors, may subordinate this lien securing any assessment provided for herein to any other mortgage, lien or encumbrance, subject to such limitations, if any, as the Board of Directors may determine.

Section 9. Exempt Property. All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization

exempt from taxation by the laws of the State of Texas shall be exempt from the assessments and charges created herein. Notwithstanding the foregoing, no Lot which is used as a residence shall be exempt from said assessments and charges.

ARTICLE V
PROPERTY RIGHTS IN THE COMMUNITY PROPERTIES

Section 1. Owner's Easement for Access and Enjoyment. Subject to the provisions herein stated, every Member shall have an easement of access and a right and easement of enjoyment in the Community Properties, and such right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following rights of the Association:

(a) The Association shall have the right to borrow money and in aid thereof to mortgage the Community Properties upon written approval by two-thirds (2/3) of the Members present at a Meeting of Members of the Association. In the event of a default under or foreclosure of any such mortgage, the rights of the lender or foreclosure sale purchaser shall be subject to the easement of enjoyment of the Members, except that the lender or foreclosure sale purchaser shall have the right, after taking possession of such Community Properties, to charge admission and other fees as a condition to continued enjoyment by the Members of any recreational facilities and to open the enjoyment of such recreational facilities to a reasonably wider public until the mortgage debt owed to such lender, or the purchase price paid by the foreclosure purchaser, interest thereon at the lesser of (i) eighteen percent (18%) per annum or (ii) the maximum rate of interest permitted under applicable law, and other reasonable expenses incident to maintenance of such Community Properties incurred by the lender or foreclosure sale purchaser shall be satisfied or recovered, whereupon the possession of such Properties shall be returned to the Association and all rights hereunder of the Members shall be fully restored.

(b) The Association shall have the right to take such steps as are reasonably necessary to protect the Community Properties against foreclosure of any such mortgage.

(c) The Association shall have the right to suspend the voting rights and enjoyment rights of any member for any period during which any assessment or other amount owed by such Member to the Association remains unpaid in excess of thirty (30) days.

(d) The Association shall have the right to establish reasonable rules and regulations governing the Members' use and enjoyment of the Community Properties, and to suspend the enjoyment rights and voting rights of any Member for any period not to exceed sixty (60) days for any infraction of such rules and regulations.

(e) Upon written approval by two-thirds (2/3) of the Members, the Association shall have the right to transfer or convey all or any part of the Community Properties,

or interests therein, to any public authority for such purposes and subject to such conditions as may be approved in writing by said two-thirds (2/3) of the Members.

(f) The Association shall have the right, but not the obligation, to contract, on behalf of all Lots, for garbage and rubbish pickup and to charge the Owner of each Lot for his pro rata share to be determined by dividing the number of Lots being served into the total cost of providing such garbage and rubbish pickup and such cost to be in addition to, should the Association so elect, the assessments described herein.

Section 2. Delegation of Use. Each Member shall have the right to extend his rights and easements of enjoyment to the Community Properties to the members of his family, to his tenants who reside in the Subdivision, and to such other persons as may be permitted by the Association.

ARTICLE VI USE RESTRICTIONS

Section 1. Residential Use. Each and every Lot is hereby restricted to custom-built residential dwellings for single family residential use only. No business, professional, commercial, or manufacturing use shall be made of any of said Lots, even though such business, professional, commercial, or manufacturing use be subordinate or incident to use of the premises as a residence. No structure other than one single family residence and its outbuildings shall be constructed, placed on, or permitted to remain on any Lot in the Subdivision. As used herein, the term "residential use" shall be construed to prohibit the use of any Lot for duplex houses, garage apartments for rental purposes or apartment houses. Further, as used herein, the term "custom-built" shall be construed to mean homes of a unique character whose floor plan is not repeated more than three (3) times within the bounds of the Subdivision, unless otherwise approved by the Committee, provided, however, the front elevation for each of the three (3) homes shall be different.

Section 2. Animals and Livestock. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot. Consistent with its use as a residence, dogs, cats, or other household pets may be kept on a Lot, provided that they are not kept, bred, or maintained for business purposes.

Section 3. Nuisances. No noxious or offensive trade or activity shall be carried on upon any Lot nor shall anything be done thereon which may be or become an annoyance or nuisance to residents of the Subdivision.

Section 4. Storage and Repair of Vehicles. No boat, mobile home, trailer, boat rigging, truck larger than a three-quarter (3/4) ton pickup, bus, or similar vehicles, or unused or inoperable automobiles shall be parked or kept in the Street in front of, or side of any Lot or on any Lot, unless such vehicle is stored within a garage or unless the vehicle is screened. which screening must be approved by the Committee. No Owner of any Lot in the Subdivision or any visitor 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 the term "temporary" shall mean that the vehicle shall not remain in driveways or Streets in excess of forty-eight (48) hours.

Section 5. Permitted Hours for Construction Activity. Except in an emergency or when other unusual circumstances exist, as determined by the Board of Directors of the Association, 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.

Section 6. Disposal of Trash. No trash, rubbish, garbage, manure, debris, or offensive material of any kind shall be kept or allowed to remain on any Lot, nor shall any Lot be used or maintained as a dumping ground for such materials. All such matter shall be placed in sanitary refuse containers constructed of metal, plastic, or masonry materials with tight-fitting sanitary covers or lids and placed in an area adequately screened by planting or fencing. Equipment used for the temporary storage and/or disposal of such material prior to removal shall be kept in a clean and sanitary condition and shall comply with all current laws and regulations and those which may be promulgated in the future by any federal, state, county, municipal or other governmental body with regard to environmental quality and waste disposal. In a manner consistent with good housekeeping, the Owner of each Lot shall remove such prohibited matter from his Lot at regular intervals at his expense. No water wells, cesspools or septic tanks shall be permitted on any Lot.

Section 7. Storage of Building Materials. 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. During initial construction or remodeling of the residences by Builders in the Subdivision, building materials may be placed or stored outside the property lines. Building materials 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 materials be placed or stored on the street paving.

Section 8. Mineral Production. No drilling, developing operations, refining, quarrying or mining operations of any kind shall be permitted upon any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be permitted upon any Lot. Declarant waives it right to use the surface of the Subdivision for the exploration, development or production of oil, gas or other minerals from the mineral estate, if any, owned and retained by Declarant.

ARTICLE VII ARCHITECTURAL RESTRICTIONS

Section 1. Type of Residence. Only one detached single family residence not more than two stories shall be built or permitted on each Lot. All residences shall

have an attached or detached enclosed garage for two or three cars that shall correspond in style, color and architecture to the main residence and shall be located at the rear of the Property. Carports on Lots are prohibited unless otherwise approved in writing by the Committee. All structures shall be of new construction and no structure shall be moved from another location onto any Lot. All residences must be kept in good repair and must be painted when necessary to preserve their attractiveness.

Section 2. Living Area Requirements. The ground floor area of any two-story single family dwelling, exclusive of open porches and garages, shall contain not less than 1,350 square feet and the total area of the two-story single family dwelling shall contain no fewer than 2,450 square feet. The total living area of any one story single family dwelling, exclusive of porches and garages, shall contain not less than 2,200 square feet. The ground floor area of any one and one-half story single family dwelling, exclusive of porches and garages, shall contain no fewer than 1,350 square feet and the total area of any one and one-half story single family dwelling shall contain no fewer than 2,300 square feet.

Section 3. Location of Residence on Lot. Unless otherwise approved by the Committee, all residences on each Lot shall face the Lot line having the shortest dimension abutting a Street (front lot line). Residences on Corner Lots shall have a presentable frontage on each Street on which they face. Each attached or detached garage shall, unless otherwise permitted by the Committee, face either upon the front lot line or upon a line drawn perpendicular to the front lot line. Upon approval of the Committee, any detached garage located more than sixty-five (65) feet from the front lot line shall not be required to face upon said lot line. Driveway access will be provided from the front lot line only, except for Corner Lots which may have driveway access from a side Street. No residence shall be located on any Lot nearer to the front lot line or nearer to the side street line than the minimum setback lines shown on the Subdivision Plat. No residence shall be located on any utility easement. No residence shall be located nearer than five (5) feet to an interior lot line. Attached garages shall be located no less than five (5) feet from an interior lot line and detached garages shall be located no less than three (3) feet from an interior lot line. However, a garage located more than sixty-five (65) feet from the front lot line may be located no nearer than three (3) feet from any interior lot line. For the purposes of this covenant, eaves, steps and open porches or driveways shall not be considered as a part of a residence.

Section 4. Type of Construction. Unless otherwise approved by the Committee, the entire front exterior wall area and at least fifty-one percent (51%) of the entire exterior wall areas of all residences (excluding detached garages), excluding, gables, windows, and door openings, must be of masonry or brick veneer. All chimneys must be of masonry or brick veneer. No garage or accessory building shall exceed in height the dwelling to which it is appurtenant without the written consent of the Committee. Every garage and permitted accessory building (except a greenhouse) shall correspond in style and architecture with the dwelling to which it is appurtenant. No structure of any kind or character which incorporates frame construction on the exterior shall be erected on any Lot unless such structure receives at least two coats of paint at the time of construction or the

exterior is of redwood or cedar material.

Section 5. Alternate Buildings. Alternate buildings or structures and any structures other than one residence and one attached or detached garage shall not be permitted on any Lot. Temporary toilet facilities, sales and construction offices and storage areas may be used in connection with the construction and 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.

Section 6. Driveways. On each Lot the Builder shall construct and the Owner shall maintain at his expense the driveway from the garage to the abutting Street, including the portion of the driveway in the Street easement, and the Builder shall repair at his expense any damage to the Street occasioned by connecting the driveway thereto. Driveways shall be composed of reinforced concrete or, if desired by any Builder or Owner, of any higher grade materials.

Section 7. Roof Material. Roofs of all residences constructed prior to the date of recording of this Amended and Restated Declaration shall have been constructed so that the exposed material is either wood shingles having a grade no less than No. 2 or other material approved by the Committee. Unless approved in writing by the Committee, roofs of all residences constructed or replaced after the date of recording of this Amended and Restated Declaration shall be composition roofs with a life of twenty-five (25) years or longer.

Section 8. Fences. No fence or wall shall be erected on any Lot nearer to the Street than the building setback lines as shown on the Subdivision Plat. The erection of chain link fences is prohibited. Unless approved in writing by the Committee, no fence shall be greater in height than six (6) feet, except where located on the perimeter boundary line of the Subdivision.

Section 9. Trees, Grass, Shrubbery and Fencing. The Builder, on each Lot upon which the Builder is constructing a residence, shall landscape the area between the front of such residence and the curb line of the abutting cul-de-sac or Collector Street, which landscaping shall include the planting of grass by sodding and the planting of shrubs. The grass shall be of a type and within standards prescribed by the Committee. Grass and weeds shall be kept mowed by the Owner to prevent unsightly appearance. Dead or damaged trees, which might create a hazard to property or persons within the Subdivision shall be promptly removed or repaired, and if not removed or repaired by Owner upon request, then the Association may remove or repair or cause to be removed or repaired such trees at the Owner's expense and shall not be liable for damage caused by such removal. Vacant Lots shall not be used as dumping grounds for rubbish, trash, rubble, or soil. The Association may plant, install and maintain shrubbery and other screening devices around boxes, transformers and other above-ground utility equipment. The Association shall have the right to enter upon the Lots to plant, install, maintain and replace such shrubbery or other screening devices. Owners of residences shall construct

and maintain a fence or other suitable enclosure to screen from public view the drying of clothes, yard equipment, and wood piles or storage piles. Except as provided above for dead or damaged trees, no Owner or Builder of any Lot shall destroy or remove from any Lot any tree the trunk of which measures more than four (4) inches in diameter at its widest point without the express written approval of the Committee, provided, however a Builder or Owner may without the consent of the Committee remove any tree, whether or not greater than 4 inches in diameter, if such tree is located within the area designated in the site plan, schematic plan or design plan for the location of the home, the garage, the driveway or the sidewalk or within three (3) feet of the home or the garage This prohibition does not preclude reasonable pruning of any such tree in order to control its appearance and direction of growth.

Section 10. Signs. No signs, billboards, posters, or advertising devices of any kind shall be permitted on any Lot without the prior written consent of the Committee other than one sign of not more than five (5) square feet advertising the particular Lot on which the sign is situated for sale and containing only the words "For Sale", the name and telephone number of the real estate agent and the words "Shown by Appointment Only." The Builders, as a group, shall be allowed to erect at the entrance of the Subdivision one sign of not more than eighty (80) square feet to serve as a Subdivision and Builder identification sign. Additionally, each Builder may have one sign of not more than thirty-two (32) square feet to identify a sales office, however, in no event shall more than one sign be displayed at each sales office. All signs erected by the Builders shall be of similar color and design and shall be consistent with the theme approved by the Committee.

Section 11. Traffic Sight Areas. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two and six feet above the Street shall be permitted to remain on any Corner Lot within the triangular area formed by the two (2) lot lines abutting the Street and a line connecting them at points twenty-five feet from their intersection or within the triangular area formed by the lot line abutting a Street, the edge line of any driveway or alley pavement and a line connecting them at points ten (10) feet from their intersection.

Section 12. Exterior Antennae. No radio or television wires or antennae shall be placed on any Lot between the residence and an adjoining Street. Nor shall antennae, including free-standing antennae, extend more than ten (10) feet above the roof of a residence.

Section 13. Minimum Lot Size in Relation to Residence. No residence shall be erected on any Lot or combination of Lots having a lot width at the front of the Lot less than the shortest lot width at the front of any Lot as shown on the Subdivision Plat; and no residence shall be erected on any Lot or combination of Lots having a lot area less than the smallest area of any Lot shown on the Subdivision Plat.

Section 14. Mailboxes. Mailboxes, house numbers and similar matter used in the Subdivision must be harmonious with the overall character and aesthetics of the community and the decision of the Committee that any such matter is not so harmonious shall be final.

Section 15. Disposal Units. Each kitchen in each residence shall be equipped with a garbage disposal unit in a serviceable condition.

Section 16. Air Conditioners. No window or wall type air conditioners visible from any Street shall be permitted.

Section 17. Private Utility Lines. All electrical, telephone, and other utility lines and facilities which are located on a Lot, and are not owned by a governmental entity or a public utility company shall be installed in underground conduits or other underground facilities unless otherwise approved in writing by the Architectural Control Committee.

Section 18. Enforcement of Exterior Maintenance. In the event of violation of any covenant herein by any Owner or occupant of any Lot and the continuance of such violation after ten (10) days written notice thereof, or in the event the Owner or occupant has not proceeded with due diligence to complete appropriate repairs and maintenance after such notice the Association shall have the right (but not the obligation), through its agents or employees, to repair, maintain and restore the Lot and the exterior of the residence and any other improvement located thereon. To the extent necessary to prevent rat infestation, diminish fire hazards and accomplish any of the above needed repairs, maintenance and restoration, the Association shall have the right, through its agents and employees, to enter any residence or improvements located upon such Lot. The Association may render a statement of charge to the Owner or occupant of such Lot for the cost of such work. The Owner and occupant agree by the purchase and occupation of the lot to pay such statement immediately upon receipt. The Association, or its agents and employees shall not be liable. and are hereby expressly relieved from any liability, for trespass or other tort in connection with the performance of the exterior maintenance and other work authorized herein.

ARTICLE VIII EASEMENTS

No utility company or authorized political subdivision using the easements referred to herein shall be liable for any damages done by them or their assigns, agents, employees or servants, to fences, shrubbery, trees, improvements or other property of the Owner situated on the land covered by such easements as a result of construction, maintenance or repair work conducted by the utility company, authorized political subdivision, or their assigns, agents, employees or servants, except for such damage caused by their negligence or wilfull misconduct. Easements for the underground service may be crossed by driveways and walkways provided that the Builder or Owner makes prior arrangements with the utility company furnishing electric service and provides and installs the necessary electric conduit of approved type and size under such driveways or walkways prior to construction thereof. Such easement for the underground service shall be kept clear of all other improvements, including buildings, patios, or other pavings, and neither Builder nor any utility company using the easements shall be liable for any damage done

by either of them or their assigns, their agents, employees, or servants, to shrubbery, trees, or improvements (other than crossing driveways or walkways provided the conduit has been installed as outlined above) of the Owner and located on the land covered by said easements, unless caused by their negligence or wilfull misconduct.

ARTICLE IX ENFORCEMENT

The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, the covenants, conditions and restrictions contained herein. Failure of the Association or any Owner to enforce any of the provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE X GENERAL PROVISIONS

Section 1. Term. These covenants shall run with the land and shall be binding upon all parties and all persons claiming under them: for a period of forty (40) years from the date this Amended and Restated Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by two-thirds (2/3) of the then Members of the Association has been recorded agreeing to change or terminate the Restrictions, in whole or in part.

Section 2. Severability. Invalidation of anyone of these covenants by judgment or other court order shall in no wise affect any other provisions, which shall remain in full force and effect except as to any terms and provisions which are invalidated.

Section 3. Gender and Grammar. The singular wherever used herein shall be construed to mean or include the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations (or other entities) or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

Section 4. Titles. The titles of this Amended and Restated Declaration of Articles and Paragraphs contained herein are for convenience only and shall not be used to construe, interpret, or limit the meaning of any term or provision contained in this Amended and Restated Declaration.

Section 5. Amendment. Subject to the provisions of Article XI, this Amended and Restated Declaration may be amended by an instrument executed by two-thirds (2/3) of the Members of the Association.

Section 6. Entire Agreement. This Amended and Restated Declaration supercedes the Original Restrictions in their entirety and as of the date of recording of this Amended

and Restated Declaration the Original Restrictions shall be null and void and of no further force and effect.

ARTICLE XI
ANNEXATION

Additional property may be annexed to the Subdivision upon the written approval of two-thirds (2/3) of the Members of the Association. The Owners of Lots in such annexed property, as well as all Owners subject to the jurisdiction of the Association, shall be entitled to the use and benefit of the maintenance assessment and of all Community Properties that may become subject to the jurisdiction of the Association, provided that such annexed property shall be impressed with and subject to the annual maintenance assessment imposed hereby on a uniform, per Lot basis by recorded restrictions subject to the jurisdiction of the Association.

Upon a merger or consolidation of the Association with another Association, the Association's properties, rights, and obligations may be transferred to the surviving or consolidated Association, or alternatively, the properties, rights and obligations of another Association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated Association shall administer the covenants, conditions and restrictions established by this Amended and Restated Declaration, together with the covenants, conditions and restrictions applicable to the properties of the other Association as one scheme. However, such merger or consolidation shall not effect any revocation, change or addition to the covenants established by this Amended and Restated Declaration and no merger or consolidation shall be permitted except upon written approval of two-thirds (2/3) of the Members of the Association.

IN WITNESS WHEREOF, this Amended and Restated Declaration is executed on the date set forth next to each Owner's signature, to be effective the date this Amended and Restated Declaration is recorded in the Official Public Records of Real Property of Harris County, Texas.

Date: _____

Printed Name: _____

Lot No. _____