

151-01-1624

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DECLARATION

OF COVENANTS, CONDITIONS AND RESTRICTIONS

8236975

WILLOW BEND TOWNHOMES

REAL PROPERTY RECORDS

THIS DECLARATION, made on the date hereinafter set forth by HOMEWOOD CORPORATION, an Ohio Corporation, D/B/A HOMEWOOD BUILDING COMPANY, acting herein by and through its duly authorized officers, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in The Woodlands, County of Montgomery, State of Texas, which is more particularly described as :

All of WILLOW BEND TOWNHOMES, a subdivision of 8.3735 acres of land in the G. W. & J. A. Wagers Survey, Abstract No. 765 and the Caddo Allen Survey, Abstract No. 45 in Montgomery County, Texas, according to the map or plat thereof recorded in Cabinet "D", Sheet 24-B of the Map Records of Montgomery County, Texas.

NOW THEREFORE, Declarant hereby declares that all of the properties described above (save and except Restricted Open Space Reserves "A", "B", "C" and "D" shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to WILLOW BEND TOWNHOMES ASSOCIATION, INC., its successors and assigns.

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

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

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

(a) Restricted Open Space Reserves "A", "B", "C" and "D" as depicted in the aforementioned plat of WILLOW BEND TOWNHOMES.

(b) A Ten (10) foot easement along the front (street) side of Lots one (1) through Seventy-Eight (78) to be used for the maintenance and repair of a sanitary sewer line or lines to be constructed thereon.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties to be used for purposes of a dwelling unit with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to HOMEWOOD CORPORATION, an Ohio Corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Woodlands Covenants" shall mean and refer to that certain Declaration of Covenants, Restrictions, Easements, Charges and Liens which are attached as Exhibit "B" and made a part of that certain special warranty deed dated May 10, 1977, from The Woodlands Community Association, Inc. to The Woodlands Development Corporation, recorded in Volume 991, Page 717 Deed Records of Montgomery County, Texas, and that certain Declaration of Covenants and conditions of Panther Creek Village executed by The Woodlands Development Corporation, dated June 14, 1978, recorded in Volume 1070, Page 51 Deed Records, covering, among other lands, the property hereinabove described as WILLOW BEND TOWNHOMES.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common 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 Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations.

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by Two-Thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the by-laws of the Association, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Title to the Common Area. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Common Area to the Association, free and clear of all encumbrances and liens. The Common Area shall remain undivided and shall at all times be owned by the Association or its successors, it being agreed that this provision is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Common Area. Notwithstanding the above, the Declarant reserves the right to grant, convey, dedicate or reserve easements over, on or under the Common Area for utility services as set forth in Article X, Sections 2 and 4 and hereinafter.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease to be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on January 1, 2000.

COVENANT FOR MAINTENANCE ASSESSMENTS

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

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Seven Hundred Twenty dollars (\$720.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improve-

ment upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4.

Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Rate of Assessment. Both annual and special assessments for all Building Lots are as follows.

(a) Building Lots owned by HOMEWOOD CORPORATION

----- none -----

(b) Building Lots with a completed residence sold to individual

homebuyers -----100%-----

In the event the maximum assessments (including increases allowable under Article IV, Section 3, are insufficient to cover the actual costs of maintaining the Common Area within the Properties, which is chargeable against the residential units located in WILLOW BEND TOWNHOMES, Declarant shall be obligated to provide the WILLOW BEND TOWNHOMES ASSOCIATION with the amount required to make up such deficit, until the earliest of the events set forth in Article III, Section 2, at which time the aforesaid obligation shall terminate.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand,

and for a reasonable charge, furnish a certificate signed by an officer of the association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate of interest per annum allowed in the State of Texas. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or mortgages imposed on any Lot to secure debt incurred for the purchase price thereof, or for improvements thereto. Sale or transfer of any Lot shall not effect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

The lien of the assessments provided for herein shall be subordinate to the lien provided for in Section 2.01 of the Woodlands Covenants. The sale or transfer of any Townhouse Lot pursuant to a decree or foreclosure under the lien provided for in The Woodlands Covenants or any proceeding in lieu of foreclosure thereof, shall extinguish the lien hereunder as to payments thereof which become due prior to such sale or transfer. No sale or transfer pursuant to foreclosure of the lien provided for in The Woodlands Covenants shall relieve such Townhouse Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Texas shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 11. Insurance.

(a) The Board of Directors of the Association shall obtain and continue in effect blanket property insurance to insure the buildings and structures in the Common Areas and the Association against risks of loss or damage by fire and other hazards as are covered under standard extended coverage provisions, and said insurance may include coverage against vandalism.

(b) The Board of Directors of the Association shall obtain comprehensive public liability insurance in such limits as it shall deem desirable, insuring the Association, its Board of Directors, agents and employees, and each owner, from and against liability in connection with the Common Area.

(c) Each Owner shall be responsible at his own expense and cost for obtaining his own personal insurance of the contents of his own residence, garage, carport or parking space, including decorations, furnishings and personal property therein, and his personal property stored elsewhere on the Properties; and for his personal liability not covered by liability insurance for all Owners obtained as a part of the common expense.

(d) The Board of Directors of the Association, or its duly authorized agent, shall obtain insurance for such Owner's townhouse against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard. All such insurance coverage shall be written in the name of the Association as Trustee for the townhouse owner. Premiums for insurance obtained by the Board of Directors on individual townhouses shall not be part of the common expense but shall be an expense of the specific townhouse or townhouses so covered and a debt owed by the Owner and shall be collectible by any lawful procedure permitted by the laws of the State of Texas. In addition, if said debt is not paid within thirty (30) days after notice of such debt, such amount shall automatically become a lien upon such Owner's building Lot and townhouse and shall continue to be a lien until fully paid. This lien shall be subordinate to the lien of any purchase money and/or improvement mortgages and shall be enforceable in the same manner as any lien created by failure to pay the maintenance assessments. In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Association, the Board of Directors, shall, with concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly. All such insurance proceeds shall be deposited in a Bank or other financial institution, the accounts of which Bank or institution are insured by a Federal governmental agency, with the proviso agreed to by said Bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors. The Board of Directors, shall advertise for sealed bids with any licensed contractors, and then

may negotiate with any contractor, who shall be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of such destroyed building or buildings. In the event the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors shall levy a special assessment against all owners of the damaged townhouses in such proportions as the Board of Directors deems fair and equitable in the light of the damage sustained by such townhouses to make up any deficiency, except that the special assessment shall be levied against all townhouse owners, as established by Article IV, Section 1 above, to make up any deficiency for repairs or rebuilding of the Common Area not a physical part of a townhouse unit. In the event that such proceeds exceed the cost of repair and reconstruction, such excess shall be paid over to the respective mortgagees and owners of the damaged townhouses in such proportions as the Board of Directors deems fair and equitable in the light of the damage sustained by such townhouses.

(e) Nothing contained in sub-section (d) above, shall preclude an Owner from obtaining his own personal insurance on his own townhouse, provided that such Owner is able to supply proof of adequate coverage to the Board of Directors' complete satisfaction. In the event of damage or destruction by fire or other casualty to any townhouse or other property covered by insurance written in the name of an individual owner, said Owner, shall, with concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, contract to repair or rebuild such damaged or destroyed portions of such townhouse or other property in a good workmanlike manner in conformance with the original plans and specifications of said townhouse. If for any reason whatsoever, such owner should refuse or fail to so repair and rebuild any and all the damage to such townhouse or other property within thirty (30) days regardless of whether or not the insurance proceeds are sufficient to pay all the costs of repair and restoration, the Association, by and through its Board of Directors, is hereby irrevocably authorized by such Owner to repair and rebuild any such townhouse or other property in a good and workmanlike manner in conformance with their original plans and specifications. The Owner shall then promptly repay the Association the amount actually expended for such repairs plus interest thereon at the highest rate per annum allowed in the State of Texas, and the Association shall have a lien securing the payment of same identical to that provided above in this Section securing the payment of insurance premiums and subject to foreclosure as above provided.

(f) Should any mortgagee fail to concur in the application of the insurance proceeds to the cost of repair and restoration, such proceeds shall first be applied to the sums secured by the first mortgage, with the excess, if any, applied to the cost of repair and restoration of such townhouse and other property.

(g) All costs, charges and premiums for all insurance that the Board of Directors authorized as provided herein, except on the individual townhouses, shall be a common expense of all Owners and be a part of the maintenance assessment.

Section 12. Taxes. Each Owner shall directly render for taxation his own Building Lot and improvements and property thereon, and shall at his own expense directly pay all taxes, levied or assessed against or upon his Building Lot and improvements and property thereon. The Association shall render for taxation and as part of the common expense of all Owners shall pay all taxes levied or assessed against or upon the Common Area and the improvements and property appertaining thereto.

Section 13. Utility Bills. Each Owner shall pay directly to the utility company furnishing such service the cost of the respective services used or consumed by him. The cost of garbage pick-up and disposal, shall be billed to the Association which shall collect each Owner's pro-rata share thereof based upon the square footage of each residence. Such cost shall not be a part of the common expense, but shall be a debt owed by the Owners of the specific townhouse or townhouses so served and shall be collectible by any lawful procedure permitted by the laws of the State of Texas. In addition, if said debt is not paid within thirty (30) days after notice of such debt, such amount shall automatically become a lien upon such Owner's building lot and townhouse and shall continue to be a lien until fully paid. This lien shall be subordinate to the lien for any purchase money and/or improvement mortgages and shall be enforceable in the same manner as any lien created by failure to pay the maintenance assessments.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, heights, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and loca-

tion within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VI

MAINTENANCE AND REPAIRS

Section 1. Definition. In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Building Lot which is subject to assessment hereunder as follows: paint, repair, replace (but not in the event of fire, or other casualty loss normally covered by insurance on the premises) and care for roofs, gutters and downspouts, (if any), exterior building surfaces, fences, trees, shrubs, grass, walks, water distribution system owned by the Association, and other exterior improvements. Such exterior maintenance shall not include: glass surfaces, enclosed patio areas (if any), windows and doors and their fixtures of hardware, landscaping installed by Owner (if any), exterior light fixtures operated from a residence, air conditioning equipment, utility company meters, circuit breakers and switch panels, sewer, gas and electric power service lines.

Section 2. Owner's Maintenance. Each owner shall maintain and keep in repair all personal property or fixtures added and affixed to the exterior of the residence and the owner shall maintain and keep in repair the following equipment and lines located outside the residence: air conditioning compressor condenser, including pipes and electrical lines connecting same to the residence, sanitary sewer line connecting the residence to the sanitary sewer collection system, electric power service conductors from the exterior of the building to the point of connecting to the electric utility company's junction box or transformer, electric circuit breakers, any portion of natural gas, and/or telephone service lines located on the Building Lot but not maintained by the gas and/or telephone companies; provided, however, that any lines, pipes, wires, conduits or systems running through a residence which serve one or more other residences and which are not maintained by any utility company, shall be operated, repaired and maintained by the Association, and shall not be disturbed or relocated by an Owner without the written consent and approval of Declarant or the Association.

An Owner shall do no act nor any work that will impair the structural soundness of integrity of another residence or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other residences or their Owners.

Section 3. Neglect of Owner. In the event that the need for maintenance or repair

is caused through the willful or negligent act of the Owner, his family, or guests, invitees, employees or agents, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Building Plot is subject.

Section 4. Authority of Association. In the event an Owner is responsible for certain exterior maintenance as set forth in the Rules and Regulations of the Association and such Owner shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said Building Lot and to repair, maintain and restore the Building Lot and any improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Building Plot is subject.

ARTICLE VII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall unit is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Building Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. If a wall which is intended as a party wall is situated entirely on one townhouse building plot instead of on the dividing line between townhouse building plots, due to error in construction, such wall shall nevertheless be deemed to be on the dividing line and shall constitute a party wall for the purposes of this Article. Reciprocal easements shall exist upon and in favor of the adjoining townhouse building plots for the maintenance, repair and construction of party walls.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the

elements shall bear the whole cost of furnishing the necessary protection against the elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. Should any party refuse to choose an arbitrator within ten (10) days after written request therefor, the Board of Directors of the Association shall select an arbitrator for the refusing party.

ARTICLE VIII

RE-SUBDIVIDING OF BUILDING LOTS

Any Building Lot or part hereof may be re-subdivided or consolidated with any adjoining Building Lot or Building Lots or part or parts thereof to constitute a single Building Lot on which a residence may be constructed, provided that the same shall be approved by the Architectural Control Committee and subject to State and local law regarding re-subdividing, and subject to Section 10.01 of The Woodlands Covenants, which provide for the prior written approval of the Development Standards Committee.

ARTICLE IX

USE RESTRICTIONS

The Building Lots and the Common Area shall be occupied and used as follows:

Section 1. Residential Use and Type. No Owner shall occupy or use his Building Lot or building thereon, or permit the same or any part thereof to be occupied or used for any purpose other than as a private single family residence for the Owner, his family guests and tenants of not less than 1136 square feet of floor area, measured through the exterior walls of the building. No Building Lot shall be used or occupied for any business, commercial, trade or professional purposes either apart from or in connection with the use thereof as a residence. No building shall be erected, altered, placed or permitted to remain on any Building Plot other than single family residences of not more than two (2) stories, together with a private garage or carport for not more than two (2) cars.

Section 2. Obstruction and Use of Common Area. There shall be no obstruction of the Common Area. Nothing shall be stored in the Common Area without the prior written consent of the Board of Directors, and the Common Area shall not be used for any commercial purposes.

Section 3. Insurance. Nothing shall be done or kept in the Common Area which will increase the rate of insurance on the Common Area, without the prior written consent of the Board of Directors. No Owner shall permit anything to be done or kept in the Common Area which will result in the cancellation of insurance on any part of the Common Area, or which would be in violation of any law. No waste will be committed in the Common Area.

Section 4. Nuisances. No noxious or offensive activity shall be carried on upon any Building Lot or the Common Area, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the other Owners. No repair work, dismantling or assembling of motor vehicles or any other machinery or equipment shall be permitted in any street, driveway or yard adjacent to a street, or in the Common Area. No vehicle shall be parked on streets or driveways so as to obstruct ingress and egress by the Owners of Building Lots, their families, guests and invitees except for the reasonable needs of emergency, construction, or service vehicles for a time limited to as briefly as possible. The streets are not intended for use by the Owners of Building Lots for parking or storing boats, trailers, camping units, or any personal vehicles and the Architectural Control Committee may insure the proper use of said areas in such legal manner as it deems necessary.

Section 5. Temporary Structures. No structures of a temporary character, trailer, basement, tent, shack, barn, servants quarters or other out buildings shall be used on any Building Lot at any time as a residence either temporarily or permanently; nor shall any used residence or other used structure be moved onto any Building Lot. Trailers and motor vehicles shall not be used on any Building Lot at any time as a residence, either temporarily or permanently. Notwithstanding any provision herein to the contrary, during the construction and sales period of the initial dwelling units the builder may erect and maintain such structures as is customary in connection with such construction and sale of such property, including, but without limitations, a business office, storage areas, construction yards, signs, model units and sales offices.

Section 6. Signs. No sign of any kind shall be displayed to public view on any Building Lot or Building except one sign of not more than five (5) square feet in area advertising the merits of the property for sale or rent. During the construction and sales period of the dwelling units the builder may use other signs and displays to advertise the merits of the property for sale or rent.

Section 7. Oil and Mining Operations. No gas or oil drilling, gas or oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Building Plot nor shall oil wells, tanks, tunnels, mineral excavations

or shafts be permitted upon or in any Building Lot.

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Section 8. Livestock and Poultry. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Building Lot, except that dogs, cats or other household pets, not to exceed a total of two (2) pets, may be kept provided that they shall not become a nuisance and are not kept, bred, or maintained for any commercial purposes.

Section 9. Garbage and Refuse Disposal. No Building Lot or portion thereof shall be used or maintained as dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary containers in an area screened by adequate planting or fencing so as to conceal them from public view except on days designated by the Association of collection of rubbish. There is reserved in favor of the Association the determination of the method of garbage disposal, that is, whether it shall be through public authority or through private garbage disposal contractor(s). All equipment for the storage or disposal of such materials shall be kept in clean and sanitary condition.

Section 10. Sewage and Water. No Sewage treatment system nor water well shall be permitted on any Building Plot.

Section 11. Use of Common Area. Except in enclosed areas on Building Lot, no planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon the Properties except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Association's Board of Directors or their designated architectural committee. Except for the right of ingress and egress and the right and easement of enjoyment as defined herein, the Owners are hereby prohibited and restricted from using any of the Properties outside the interior property lines of each Building Lot, except as may be allowed by the Association's Board of Directors. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all Owners of the Properties, and in additions thereto, and is necessary for the protection of said Owners. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the Common Area and the exteriors and roofs of the residences, including but not limited to, parking areas and walks, shall be taken by the Board of Directors or by its duly delegated representatives.

Section 12. Clotheslines. No outside clotheslines shall be constructed or maintained nor shall personal clothing or household linens be hung on any structures located on any Building Lot within the sight of the Common Area, any street or adjacent Building Plot.

Section 13. Illegal Activity. No spiritous, vinous, or malt liquors or medicated bitters capable of producing intoxication shall ever be sold or offered for sale on any Building Lot, nor shall any Building Lot be used for vicious, illegal or immoral

purposes, or for any purpose in violation of the laws of the State of Texas, the United States or of the local police, health, sanitary, building or fire codes and regulations relating to or affecting the use, occupancy or possession of any Building Plot.

Section 14. Outside Antennas. Without prior written approval of the Board of Directors, no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the Properties, nor upon any structure situated upon the Properties other than an aerial for a master antenna system, should any such master system or systems be utilized and require any such exterior antenna.

Section 15. Non-Discrimination. No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any Owner or Owners in favor of the other Owners.

Section 16. Annoyance. No activity shall be carried on upon any Building Lot or the Common Area which might reasonably be considered as giving annoyance to neighbors of ordinary sensibilities and which might be calculated to reduce the desirability of the Properties as a residential neighborhood, even though such activity be in the nature of a hobby and not carried on for profit. The Board of Directors of the Association shall have the sole and exclusive discretion to determine what constitutes an annoyance.

ARTICLE X

EASEMENTS

Section 1. Construction. Each Building Lot and the Property included in the Common Area shall be subject to an easement for encroachments created by construction, settling and overhangs as designed or constructed by the Declarant. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event the structure containing two (2) or more residences is partially or totally destroyed, and then rebuilt, the Owners so affected agree that minor encroachments of parts of the adjacent residential units on Common Areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 2. Utility, Emergency and Association. There is hereby created a blanket and perpetual easement upon, across, over, under and above all of the Properties for ingress, egress, installations, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones and electricity, and a master television antenna system, if any such system is installed. By virtue of this easement, it shall be expressly permissible for the providing electrical and/or telephone company to erect and maintain the necessary poles and other necessary equipment on said property

and to affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of said residences. An easement is further granted to all police, fire protection, ambulance, garbage and trash collector pick-up vehicles and all similar persons to enter upon the Common Area in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and to any management company selected by the Association to enter in or to cross over the Common Area and any Building Lot to perform the duties of maintenance and repair of the residence or Common Area provided for herein. Notwithstanding anything to the contrary contained in the paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Properties except as initially programmed and approved by the Declarant or thereafter approved by Declarant or the Association's Board of Directors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant or the Association shall have the right to grant such easement without conflicting with the terms hereof. The easements provided for in this Article shall in no way affect any other recorded easement on said premises.

Section 3. Use of Easements. Easements for underground utility services may be crossed by driveways and walkways provided the Declarant makes prior arrangements with the utility furnishing service. Such easements for underground services shall be kept clear of all other improvements, including building, patios, or other pavings, other than crossing walkways or driveways, and neither Declarant 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, flowers, or other improvements of the Owner located on the land covered by said easements.

The underground service described above shall be furnished by Gulf States Utilities Company, and there shall be a charge on each monthly bill to each of the lot occupants to cover the cost of electric energy to operate the street lighting system to be installed in and upon the property above described as outlined under the provisions of Gulf States Utilities Rate Schedule RLU. Rate Schedule RLU is subject to change without notice. This charge is in addition to all other charges such Lot owners may incur for electric service.

Section 4. Changes and Additions to Easements. The Declarant reserves the right to make minor changes and additions to the above easements, as to any Building Lots owned by it, for the purpose of efficiently and economically installing and operating above mentioned utilities.

MORTGAGEES

Section 1. Notice to Association. An Owner who mortgages his Townhouse shall notify the Association giving the name and address of his mortgagee. The Association shall maintain such information in a book entitled "Mortgages of Townhouses".

Section 2. Notice of Default. The Association shall notify a first mortgagee in writing, upon request of such mortgagee, of any default by the mortgagor in the performance of such mortgagor's obligations as set forth in the Declaration which is not cured within thirty (30) days.

Section 3. Taxes and Other Charges on Common Area. The Association shall immediately reimburse first mortgagees who may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area; or who may pay overdue premiums on hazard insurance policies; or who may secure new hazard insurance coverage on the lapse of a policy.

Section 4. Examination of Books. The Association shall permit first mortgagees to examine the books and records of the Association during normal business hours.

Section 5. Reserve Fund. The Association shall establish an adequate reserve fund for replacement of the Common Area property and fund the same by regular monthly payments rather than by special assessments.

Section 6. Annual Audits. The Association shall furnish each first mortgagee an annual audited financial statement of the Association within ninety (90) days following the end of each fiscal year of the Association.

Section 7. Notice of Meetings. The Association shall furnish each first mortgagee upon request of such mortgagee, prior written notice of all meetings of the Association and permit the designation of a representative of such mortgagee to attend such meetings, one such request to be deemed to be a request for prior written notice of all subsequent meetings of the Association.

Section 8. Notice of Amendments to Declaration, etc. The Association shall furnish each first mortgagee prior written notice for the following (i) abandonment or termination of WILLOW BEND TOWNHOMES, as a planned unit development; (ii) any material amendment to the Declaration, By-Laws or Articles of Incorporation of the Association; and (iii) the termination of any professional management contract for the planned unit development.

Section 9. Leases. The Association shall require that all leases of any townhouse units must: (i) be in writing, and (ii) provide that such leases are specifically subject to all respects to the provisions of the Declaration, Article of Incorporation and By-laws of the Association, and that any failure by the lessee to comply with the terms and

conditions of such documents shall be a default under such leases. Other than the foregoing, there shall be no restriction on the right of any townhouse owner to lease his unit.

Section 10. Notice of Damage or Destruction. The Association shall furnish the first mortgagees timely written notice of any substantial damage or destruction of townhouse units and of any part of the Common Area and facilities.

Section 11. Notice of Condemnation or Eminent Domain. The Association shall furnish the first mortgagees timely written notice of any condemnation, or eminent domain proceeding regarding all or any portion of a townhouse unit or of the Common Areas and facilities and of any proposed acquisition of all or any part of such properties through Condemnation or eminent domain proceedings.

Section 12. Consent of Mortgagees Required.

(A) Unless all of the first mortgagees of residential lots in WILLOW BEND TOWNHOMES have given their prior written approval, the Association shall not be entitled to:

(a) by act or omission seek to abandon, partition, subdivide, alienate, release, encumber, hypothecate, sell or transfer, real estate or improvements thereon which are owned, directly or indirectly, by such Association, for the benefit of the owners of residential lots in the subdivision; the granting of easements for public utilities or for other public purposes consistent with the intended use of such property by the subdivision shall not be deemed a transfer within the meaning of this clause;

(b) change the ratio of assessment or the method of determining the obligations, assessments, dues or other charges which may be levied against a residential lot owner.

(B) Unless at least seventy-five (75%) per cent of the first mortgagees (based upon one vote for each first mortgage owned), or owners (other than the Declarant) of residential lots in WILLOW BEND TOWNHOMES have given their prior written approval, the Association shall not be entitled to:

(a) by act or omission change, waive or abandon any scheme or regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of units, the exterior maintenance of units, the maintenance of party walls or common fences and driveways, or the upkeep of lawns and plantings in the subdivision;

(b) fail to maintain fire and extended coverage on insurable Common Area property on a current replacement cost basis in an amount not less than one hundred (100%) per cent of the insurable value (based on current replacement cost);

(c) use hazard insurance proceeds for losses to any Common Area property for other than the repair, replacement or reconstruction of such improvements.

Section 13. Management Agreements. Any management agreement entered into by the Association will be terminable by the Association for cause upon not more than thirty (30) days written notice, and the term of such management agreement will not exceed the period of one (1) year, renewable by agreement of the parties to such agreement for successive one (1) year periods.

Section 14. Delegations of Owner's Use of Common Area. Regarding an Owner's delegation of his rights of enjoyment to the Common Areas and facilities as provided for in Article II, Section 2 of this Declaration, no such delegation shall work a severance of the rights of enjoyment of the Common Areas and facilities from the ownership of a Building Lot, and any such delegation by any owner shall automatically terminate upon conveyance of legal title to such Building Lot by said owner.

Section 15. Exemption From Right of First Refusal. When any first mortgagee comes into possession of a Townhouse pursuant to the remedies provided in the mortgage, such as foreclosure of the mortgage or deed of trust, or deed in lieu of foreclosure, such mortgagee shall be exempt from any "right of first refusal" or other restriction on the sale or rental of the mortgaged Townhouse which the Association might have, including, but not limited to, restrictions on the age of unit occupants and restrictions on the posting of signs pertaining to the sale or rental of Townhouse.

ARTICLE XII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Duration. The rights, use easements and privileges of the Owners in and to the Common Area as provided for herein shall be deemed to be covenants running with the land and shall be of perpetual duration. All other provisions, restrictions, covenants and conditions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may

be amended during the first twenty (20) year period by an instrument signed by not less than ninety (90%) per cent of the Building Lot Owners, and thereafter by an instrument signed by not less than seventy-five (75%) per cent of the Building Lot Owners. An amendment must be recorded in the Real Property Records of Montgomery County, Texas.

Section 4. Amendments by Declarant. The Declarant reserves and shall have the right at any time and from time to time, without the joinder or consent of any Owner or any other person, to amend this Declaration by an instrument in writing duly signed, acknowledged and filed for record, for the purpose of correcting any typographical error, ambiguity or inconsistency appearing in this Declaration, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by this Declaration, and shall not impair the vested property rights of any home owner or his mortgagee.

Section 5. Rights of Mortgagees, Trustees or Lienholders. No violations of any of these restrictions, covenants or conditions, shall affect or impair the rights of any Mortgage, Trustee, or Lienholder under any mortgage or deed of trust, or the rights of any Mortgagee, Trustee or Lienholder under any such mortgage or deed of trust.

Section 6. Dedications. Those tracts of land described and designated "Private Streets", are hereby perpetually dedicated, established and set aside as a non exclusive easement for street purposes for the common use, benefit and enjoyment of the Owners and/or occupants of the Building Lots which form a part of the Properties, to serve the Properties as streets for access, ingress and egress to and from each Building Lot to a street dedicated to public use. Easements affecting the Properties are hereby reserved as shown on the recorded plat referred to for the installation, operation and maintenance of utilities and drainage facilities. All dedications, limitations, restrictions and reservations shown on said plat are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance or to be executed by or on behalf of Declarant, conveying said property or any part thereof.

Section 7. Conflicts With Woodlands Covenants. In the event that any clause, sentence, paragraph, sub-section, or section of this Declaration of Covenants shall be inconsistent with the Woodlands Covenants, then the latter shall be controlling. Nothing in this document shall be construed to confer upon the Declarant the right to amend, or in any manner change the Woodlands Covenants.

151-01-1644

IN WITNESS WHEREOF, the undersigned, has hereunto set its hand and seal this 23rd.
day of August , 1982.

ATTEST:

HOMEWOOD CORPORATION,
D/B/A HOMEWOOD BUILDING COMPANY

Linda L. Cunningham
Assistant Secretary

By:

Daniel W. Forbes
Daniel W. Forbes, Vice-President

STATE OF TEXAS

COUNTY OF MONTGOMERY

This instrument was acknowledged before me on the 23 day of August, 1982,
by Daniel W. Forbes, Vice-President of Homewood Corporation, an Ohio corporation, D/B/A
Homewood Building Company, on behalf of said corporation.



Leslie V. Anderson
Notary Public, State of Texas

Notary's Printed Name: LESLIE V. ANDERSON

My Commission Expires: 11/14/85

AFTER RECORDING RETURN TO:

Homewood Corporation
2202 Timberloch Place
The Woodlands, Texas 77380

STATE OF TEXAS
COUNTY OF MONTGOMERY
I hereby certify that this instrument was filed
in the Public Records on the date and at the
time stamped hereon by me, and was duly recorded
in the Official Public Records of Real Property of
Montgomery County, Texas.

AUG 27 1982



Roy Harris
COUNTY CLERK,
MONTGOMERY COUNTY, TEXAS

FILED FOR RECORD

1982 AUG 27 AM 10:24

Roy Harris
COUNTY CLERK
MONTGOMERY COUNTY, TEXAS