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SECTION 3. ARTIFICIAL VEGETATION, EXTERIOR SCULPTURE, AND SIMILAR ITEMS. No

artificial vegetation or permanent flagpoles shall be permitted on the exterior of any portion of the Properties. No exterior sculpture, fountains, flags and temporary flagpoles, birdhouses, birdbaths, other decorative embellishments or similar items shall be permitted unless approved by the ACC.

SECTION 4. CARPORTS/GARAGES. No carports shall be constructed on any Lot. With the prior written consent of the ACC, a porte cochere may be approved; however this will be required in addition to garage. All garages shall be first approved by the ACC and shall be: (a) fully operable; (b) capable of housing at least two (2) automobiles; and, (c) enclosed by garage doors which must be kept in the closed position when the garage is not being used by the Owner or occupant. The garage portion of any model home may be used by Builders for sales purposes, storage purposes, and other related purposes. Upon (or before) the sale of any such model home to the first purchaser thereof, the garage portion of the model home shall be converted to a fully enclosed garage capable of housing not less than two or more than four, automobiles, with garage doors by the Builder. If the garage portion of the model home is not converted to a fully enclosed garage with garage doors by the Builder upon the sale of such model home, it shall be the obligation of the first purchaser of the model home and each subsequent Owner of the Lot (if not done by the first purchaser) to convert the garage portion of the model home to a fully enclosed garage with garage doors.

SECTION 5. DISPOSAL UNITS. Each kitchen in each residence shall be equipped with a garbage disposal unit in a serviceable condition.

SECTION 6. DRAINAGE. No owner of a lot shall be permitted to construct Improvements on such Lot or grade such Lot or permit such Lot to remain in or be placed in such condition that rain water falling on such Lot drains to any other Lot or the Common Area.

SECTION 7. DRAINAGE AND SEPTIC SYSTEMS. Catch basins and drainage areas are for the purposes of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarant may obstruct or redefine the drainage flows after location and installation of drainage swells, storm sewers, or storm drains. Declarant hereby reserves for itself and the Association a perpetual easement across the Properties for the purpose of altering drainage and water flow. Septic tanks and drain fields, other than those installed by or with the consent of the Declarant, are prohibited

within the Properties. No Owner or occupant shall dump grass clippings, leaves or other debris, petroleum products, fertilizers or other potentially hazardous or toxic substances, in any drainage ditch, stream, pond or lake within the Properties.

SECTION 8. DRIVEWAYS. With ACC approval each Lot shall have driveway access to an abutting alley or street on which the Dwelling Unit constructed thereon abuts. Subject to the foregoing limitations, the Owner of each Lot shall construct and maintain at his expense a driveway from his garage to an abutting street or alley.

SECTION 9. DWELLING UNIT SIZE. For all Lots, the minimum total floor area of any Dwelling Unit, exclusive of porches and garages, shall contain not less than one thousand three hundred (1,300) square feet, save and except those Lots as provided for in the Second Amendment to Declaration of Covenants, Conditions and Restrictions for Clayton Park as recorded with Harris County Clerk's office File No. R429305 in the Real Property Records of Harris County, Texas, which permit up to seven (7) Dwelling Units out of the Unrestricted Reserve B of Clayton West to be constructed of a minimum of One thousand two hundred (1,200) square feet of total floor area, exclusive of porches and garage.

SECTION 10. ENFORCEMENT OF EXTERIOR DWELLING OR LOT MAINTENANCE. In the event of the 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/or maintenance after such notice, Declarant or the Residential Association shall have the right (but not the obligation), through its agents or employees, to enter upon such Lot and to secure compliance with these restrictions and restore such Lot to a neat, attractive, healthful and sanitary condition. The Declarant or the Residential Association may render a statement of charge to the Owner of such Lot for the cost of such work. The Owner agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt. In the event of the failure to pay for such work, the amount of such statement may be added to the annual maintenance charge provided for herein and shall be secured by a lien on the Lot in the same manner as such annual assessment. The Declarant, the Residential Association, or their 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 maintenance and other work authorized herein.

SECTION 11. EXTERIOR LIGHTING. All exterior lighting in front of dwellings must first be approved by the ACC.

SECTION 12. FLAGPOLES. No flagpole shall be permanently erected on any Lot. Temporary flagpole(s) approved by the ACC may be erected on a Lot or in Common Areas.

SECTION 13. GRASS, SHRUBBERY AND LANDSCAPING. Prior to the initial sale thereof, the front of each Lot with a residence thereon must be solid sod with grass, and all areas visible from any street must be landscaped with shrubbery or ground cover approved by the ACC. All grass, plant beds and shrubbery shall be maintained by the Owner of the Lot. Each Lot shall have a minimum of two (2) trees in the front portion of the Lot. Solid rock scapes and/or concrete in lieu of grass or ground cover and visible from the street or alley on any lot is prohibited.

SECTION 14. HEIGHT AND CHARACTER OF DWELLING UNIT. No Dwelling Unit shall be erected, altered, or permitted to remain on any Lot other than one Dwelling Unit used for single family residential purposes only, not to exceed two (2) stories in height, and a fully enclosed garage, and other bona fide servants' quarters; provided, however, that the servants quarters' structure may not exceed the main dwelling unit in height. Provided further that it shall be permissible to have third-level living space in the Dwelling Unit completely under a sloped roof with dormers or gables, or additional levels beneath ground level in the Dwelling Unit, garage, or servants' quarters, so long as the maximum height of the buildings does not exceed forty-five (45) feet.

SECTION 15. LOCATION OF DWELLING UNIT. Except as may be authorized in writing by the ACC, no Dwelling Unit or Improvement shall be located nearer to the front Lot line nor nearer to any side or rear Lot line than as permitted by the recorded plat of the Subdivision. To provide for uniformity and proper utilization of the building area within the Lots, residences or appurtenant structures on a Lot shall not be less than ten (10) feet from the residence or appurtenant structure on any contiguous Lot(s).

SECTION 16. ZERO LOT LINE OPTION. (a) Placement. the front building setback line shall be as hereinabove required. Each residence dwelling shall be designed so as to provide that a minimum of fifty percent (50%) of the linear distance of one (1) wall of the residence structure shall be constructed adjacent to and abutting a side lot line. Such side lot line where there is such construction shall be hereinafter referred to the "Zero Lot Line." Provided however, that an open court or patio may be built

adjacent and abutting the aforementioned Zero Lot Line, but said open court or patio must be enclosed by a masonry or wood wall having a minimum height of eight (8) feet. This wall must, as is the case with the residence wall, be constructed adjacent to the abutting Zero Lot Line and enclosed the court or patio in such a manner as to appear to be an extension of the residence dwelling. The Zero Lot Line walls shall have no exterior objects or appurtenances such as, for example, there shall be no electric panels, vents, plumbing clean outs, windows or opening of any kind unless such Zero Lot Line side is on the street side of the corner lot. If the Zero Lot Line is on the street side of corner lot, normal opening and exterior appurtenances may be constructed on the dwelling abutting the Zero Lot Line. There is hereby established a six (6) foot minimum distance between the Zero Lot Line and the residence dwelling situated upon the adjoining Lot. No dwelling shall be located on any Lot within any Utility Easement along the rear lot line.

(b) Zero Lot Line Access Easement. Upon the election of Declarant, its successors and/or assigns of the Zero Lot Line Option, as evidenced by completion on a Lot of construction of any residence complying therewith, each such lot shall have an access easement not less than three (3) feet in width extending the entire depth of the lot from front to back abutting and parallel to the Zero Lot Line wall, over, on and across the adjacent lot for the construction, repair, and maintenance of improvements located on the Zero Lot Line. Conditions and use of the Zero Lot Line Access easement are hereby declared and established by and between the owner of the Zero Lot Line lot and the owner of the adjacent lot, which shall be covenants running with the land and binding both of the above-mentioned owners and all of the respective heirs and assigns forever; to wit:

(i) The Zero Lot Line lot owner must replace any fencing, landscaping or other items on the adjacent lot that he may be disturbing during construction, repair, or maintenance.

(ii) This easement, when used by the Zero Lot Line lot owner for such construction, repair or maintenance, must be left clean and unobstructed unless the easement is actively being utilized and any items removed must be replaced.

(iii) The Zero Lot Line lot owner must notify the owner of the adjacent lot to his intent to do any construction, repair or maintenance upon the Zero Lot Line wall at least twenty-four (24) hours

prior to starting any work, with the hours that such access easement may be utilized being between 8:00a.m. and 5:00p.m., Monday thru Friday, and 9:00a.m. through 6:00p.m. on Saturday.

(iv) Both the Zero Lot Line lot owner and the adjacent lot owner shall have the right of surface drainage over, along and upon the access easement area. Neither owner shall use the access easement area in such a manner as will interfere with such drainage.

(v) Neither owner shall attach any object to the Zero Lot Line wall, facing onto the access easement area and the owner of the adjacent lot will not use the Zero Lot Line wall as a playing surface for any sport. In addition, no structure shall be constructed or placed upon the access easement area by either owner, except the roof overhang and guttering as provided for above, and a fence by the owner of the adjacent lot, which allows drainage; however, access to the access easement must be preserved for the owner of the Zero Lot Line lot.

(c) Equal Set Back Option. the front setback line shall be as hereinabove required. Each residence dwelling shall not be located on the Lot nearer than three (3) feet from either side property line, nor nearer to the rear property line than the width of the utility easement on the Lot as shown on the recorded plat. It is further provided that each Lot or parcel in the subdivision shall be subject to an easement for minor (one foot or less) encroachments created by construction, settling, overhangs, brick ledges, fences, or other protrusions constructed by the Declarant or Lot Owner as long as it stands, and shall and does exist. In the event any dwelling in the subdivision is partially or totally destroyed, and the rebuilt, the owners affected agree that minor encroachments onto adjacent property due to the construction, reconstruction, or repair shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

SECTION 17. MAILBOXES. Mailboxes, cluster mailboxes and/or house numbers approved by the U.S. Postal Service, shall be incorporated within the community and must be harmonious with the overall character and aesthetics of the community.

SECTION 18. PLAYGROUND. Jungle gyms, swing sets or similar playground equipment shall be erected or installed so as not to be visible from any street or alley. Any playground or other play areas or equipment furnished by the Association or erected within the Common Area shall be used at the

risk of the user, and the Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

SECTION 19. POOLS. No above-ground swimming pools (except children's non-permanent wading pools or the like) shall be erected, constructed or installed on any Lot.

SECTION 20. PRIVATE UTILITY LINES. All electrical telephone and other utility lines and facilities which are located on a Lot and which are not owned and maintained 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 ACC, and shall be maintained at all times by the Owner of the Lot upon which same is located.

SECTION 21. ROOFS. Unless otherwise approved in writing by the ACC, the roofs of all buildings on a Lot shall be covered with fiberglass composition shingles with a life of twenty (20) years or better, and shall, at a minimum, meet the minimum specifications as defined by the Federal Housing Authority. The color of any composition shingles shall, like all other specifications to Improvements, be subject to written approval by the ACC prior to installation. Any other type roofing material may be used only if approved in writing prior to installation. Additionally, to further maintain exterior harmony, all chimneys must be finished with a masonry material.

SECTION 22. WALKWAYS. Before the construction of any residence is complete, the Builder shall construct and the Owner shall maintain a concrete walk three (3') feet in width connecting the front door of the dwelling to the street. Other walkways may be constructed for the benefit of walking paths within the lot, however, no walkway may exceed a three (3') foot width and must be approved prior to such construction. Curb sections adjacent to the street right of way, other than the driveway portion connecting to the street, are the maintenance responsibility of the Association.

SECTION 23. SIGNS. No signs, billboards, posters or advertising devices of any kind shall be permitted on any Lot without the prior written consent of the ACC, other than (a) one sign of not more than six (6) square feet advertising the particular Lot on which the sign is situated for sale or rent, or (b) one sign of not more than six (6) square feet to identify the particular Lot during the period of actual construction of a single family residential structure thereon. The right is reserved by Declarant to construct and maintain, or to allow Builders within the Properties to construct and maintain, signs,

billboards and advertising devices as is customary in connection with the sale of newly constructed residential dwellings. In addition, the Declarant and the Residential Association shall have the right to erect identifying signs at each entrance to the Properties.

SECTION 24. SOUND DEVICES. No horns, whistles, bells, or other sound devices, except for security systems used exclusively to protect the Dwelling Unit, shall be placed or used on any Lot or Improvements. This paragraph shall not preclude the use of outdoor speakers for hi-fis, stereos, or radios if the sound level is maintained at a reasonably low level with respect to adjoining property.

SECTION 25. SUPPLEMENTAL DECLARATIONS. In addition to the covenants, conditions, and restrictions herein set forth, Declarant may impose additional restrictions on the Lots, or certain of the Lots, by Supplemental Declaration as long as Declarant is the Owner of the affected property or, if Declarant is no longer the Owner, with the consent of the Owner or Owners.

SECTION 26. TEMPORARY BUILDINGS. Except as may be permitted by the Declarant or the ACC during initial construction within the Properties, no tent, shack, mobile home, motor home or any other vehicle or structure of a temporary nature shall be placed upon a Lot or any part of the Properties. Declarant may permit temporary toilet facilities, sales and construction offices, and storage areas to be used by Builders in connection with the construction and sale of residences. Builders in the Properties may use garages as sales offices for the time during which such Builders are marketing homes exclusively located within the Properties. At the time of the sale of a residence by a Builder, any garage appurtenant to such residence used for sales purposes must be converted to a garage capable of housing a minimum of two (2) full-size automobiles. This section does not exclude approval of accessory or outbuildings used for the purpose of storage (i.e. lawn equipment, etc.) which may be permitted subject to approval of the ACC. Accessory and/or outbuildings are limited to one (1) structure per Lot. Additionally, accessory or outbuildings shall be limited in height to eight (8') at the center ridge of the roof and must be positioned on the Lot behind the primary dwelling so as not to be visible from the fronting street or side street if it is a corner Lot. Materials used for construction and paint color shall be the same or as close as possible to the primary dwelling.

SECTION 27. 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 fifteen (15) feet of the point formed by the intersection of the building set back lines of such Lot.

SECTION 28. TYPE OF CONSTRUCTION. Unless otherwise approved by the ACC, at least fifty-one percent (51%) of the total exterior wall area of each and every residence, excluding detached garages, but not attached garages, gables, windows, and door openings, must be of masonry, stucco or brick veneer. Every garage and accessory building 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. An approved accessory structure may not exceed an overall height of eight feet (8') at the center roof line and must be positioned on the Lot behind the primary dwelling so as not to be visible from the fronting street (or side street in the event of a Corner Lot).

SECTION 29. TYPE OF RESIDENCE. Unless the ACC grants a variance pursuant to Section 7 of this Article VII, only one detached single family residence containing not more than two stories and an accessory outbuilding shall be built or permitted on each Lot. All residences shall have an attached or detached enclosed garage capable of housing a minimum of two (2) full-size automobiles. All structures shall be of new construction built in accordance with plans and specifications approved by the ACC pursuant to the Declaration(s), and no structure shall be moved from another location onto any Lot. All residences and approved accessory outbuildings must be kept in good repair and must be painted when necessary to preserve their attractiveness. For purposes hereof, a porte cochere shall not be considered a carport and may be permitted.

SECTION 30. USE OF TEMPORARY STRUCTURES. No structure of a temporary character, whether trailer, basement, tent, shack, garage, barn, or other outbuilding shall be maintained or used on any Lot at any time as a residence, or for any other purpose, either temporarily or permanently; provided, however, that Declarant reserves the exclusive right to erect, place and maintain such facilities in or upon any portions of the Properties as in its sole discretion may seem necessary or convenient while selling Lots, selling or constructing residences, or constructing other Improvements within the Properties.

The right to use temporary structures in connection with the construction of improvements may be assigned from time to time, in whole or in part, by Declarant to Builders.

All approved accessory outbuildings shall be properly maintained at all times and limited to use for purposes such as typical household storage, greenhouse purposes or other similar type use.

SECTION 31. VARIANCE. The ACC may authorize variances from compliance with any of the restrictions set forth in this Article VII when circumstances such as topography, natural obstructions, construction hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) estop the ACC from denying a variance in other like circumstances, regardless of its location within the subdivision. For purposes of this section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing, shall not be considered a hardship warranting a variance.

SECTION 32. WALLS, FENCES AND HEDGES. No hedge in excess of three feet (3') in height shall be erected or maintained nearer to the front Lot line than the building set-back line adjacent to the front wall of the dwelling existing on such Lot. No side or rear fence or wall shall be more than eight feet (8') nor less than six feet (6') in height. All fences and walls shall be of cedar construction or better. No fence or wall shall be erected on any Lot nearer to the Street than the building setback lines as shown on the Plat. The ACC has the right to deviate its approval for the style and materials to be used based on the location within the subdivision. It is the intent of Declarant to maintain visual continuity especially along entryways and/or main thoroughfares and/or adjacent to Common Area.

SECTION 33. WINDOW TREATMENT. No window in any Dwelling Unit or other improvement that is visible from any other Lot or a street may be covered with any aluminum foil or other reflective material. Window coverings must be compatible with the design and color of the Dwelling Unit and the overall appearance of the Neighborhood. The ACC shall have the sole authority to determine whether particular window coverings are compatible with the design and color of the Dwelling Unit and the Community-Wide Standard.

ARTICLE VIII

USE RESTRICTIONS

SECTION 1. ANIMALS AND LIVESTOCK. No animals, livestock, poultry or swine of any kind shall be raised, bred, or kept on any Lot. Consistent with its use as a residence, a maximum of two (2) dogs, cats, or other traditional household pets (exclusive of aquarium fish, parakeets, or other caged pets) may be kept on a Lot, provided that they are not kept, bred, or maintained for any business purposes.

SECTION 2. 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 or storage 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.

SECTION 3. LOT MAINTENANCE. The Owners and Occupants of all Lots shall at all times keep all weeds and grass thereon cut in the sanitary, healthful and attractive manner and shall in no event use any Lot for storage of materials and equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted. The drying of clothes in public view is prohibited. If outside drying of clothes is desired, the Owner or Occupant desiring outside drying shall construct and maintain a fenced drying yard or other suitable enclosure to screen drying clothes from public view. Similarly, all yard equipment, wood piles, or storage piles shall be screened by a fenced service yard or other similar facilities so as to conceal them from view from neighboring Lots, any street or other property. No Lot shall be used or maintained as a dumping ground for trash, nor will the accumulation of garbage, trash or rubbish of any kind thereon permitted. Burning of trash, garbage, leaves, or grass is not permitted. Trash, garbage or other waste materials shall be kept in sanitary containers constructed of metal, plastic or masonry materials with sanitary covers or lids. Equipment for

the storage or disposal of waste materials resulting from construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without undue delay, until the completion of the improvements, after which these materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. In the event of default on the part of the Owner or occupant of any Lot in observing any of the above requirements, and such default continues unresolved for ten (10) days after written notice thereof is mailed to the last known address of the Owner involved, (without the requirement of certification), Declarant or any employee, agent or contractor of the Association may, without liability to the Owner or occupant in trespass or otherwise, enter upon said Lot and cause to be cut such weeds, and grass, and remove or cause to be removed such garbage, trash and rubbish, or do any other reasonable thing necessary to restore compliance with the restrictions so as to place said Lot in a neat, attractive, healthful and sanitary condition, and such Lot is subject and be recognized as a reimbursement assessment. The Association, shall have the right but not the obligation to contract or arrange for regular garbage pick-up service for the Lot Owners. The Owner or occupant, as the case may be, agrees by the purchase or occupancy of the residence on a Lot to pay for such work or service immediately upon receipt of a statement for such services. In the event of the failure to pay such statement, the amount thereof may be added to the annual maintenance charge assessed against such Lot and shall become a charge thereon which shall be collectible in the same manner as the regular annual maintenance charge provided for herein.

SECTION 4. MINERAL PRODUCTION. No oil drilling, oil development 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.

SECTION 5. 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 Properties.

SECTION 6. PERMITTED HOURS FOR CONSTRUCTION ACTIVITY. Except in an emergency or when other unusual circumstances exist, as determined by the Residential Board, outside construction work or noisy interior construction work shall be permitted only between the hours of 6:30A.M. and 9:00 P.M. Monday thru Saturday; on Sunday, work shall be permitted only between 9:00A.M. and 5:00 P.M.

SECTION 7. RESIDENTIAL USE. Each and every Lot is hereby restricted to 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 Properties. As used herein, the term "residential use" shall be construed to prohibit the use of any Lot for duplex houses, apartment houses, or mobile homes.

SECTION 8. STORAGE AND REPAIR OF VEHICLES. Without limitation of description, no boat, boat trailer, boat rigging, motor home, trailer, mobile home, truck larger than a one ton pick-up, bus, ~~motor home, trailer, mobile home, truck larger than a one ton pick-up, bus,~~ or any style camper 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 otherwise screened from public view; provided, however, boats, boat trailers, boat riggings, motor homes, trailers, and campers may be temporarily parked in the street in front of or side of any Lot or on any Lot (for the benefit of loading and unloading, as is normal for use) for a period not to exceed seventy-two hours. No Owner of any Lot 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 seventy-two (72) hours.

SECTION 9. STORAGE OF BUILDING MATERIALS. Unless otherwise approved by the Residential Board, 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 Properties, 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 Streets.

ARTICLE IX

EASEMENTS

SECTION 1. EASEMENTS. Easements for the installation and maintenance of utilities are reserved as shown and provided for on the Subdivision Plats or as dedicated by separate instruments. Neither Declarant nor any 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, flowers, 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 such parties or their assigns, agents, employees or servants.

SECTION 2. UNDERGROUND ELECTRICAL DISTRIBUTION SYSTEM. An underground electric distribution system has been installed within the Properties which will be designated an "Underground Residential Subdivision" and which underground service area shall embrace all Lots in the Properties. The Owner of each Lot in the Underground Residential Subdivision shall, at his own cost, furnish, install, own, and maintain (all in accordance with the requirements of local governing authorities and the National Electric Code) the underground service cable and appurtenances from the point of the electric company's metering on customer's structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. In addition, the Owner of each Lot shall, at his own cost, furnish, install, own and maintain a meter loop (in accordance with the then current standards and specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for the residence constructed on such Owner's Lot. For so long as underground service is maintained in the Underground Residential Subdivision, the electric service to each Lot therein shall be underground, uniform in character and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

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 paving, 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.

SECTION 3. CABLE TELEVISION. Declarant reserves the right to hereafter enter into a franchise or similar type agreement with one or more cable television companies and Declarant shall have the right and power in such agreement or agreements to grant to such cable television company or companies the uninterrupted right to install and maintain communications cable and related ancillary equipment and appurtenances within the utility easements and rights-of-way dedicated by the Subdivision Plats or by separate instruments pertaining to the Properties.

ARTICLE X

ENFORCEMENT

The Residential Association, the Declarant, or any Owner shall have the right to enforce, by any proceeding at law or in equity, the covenants, conditions, restrictions, and liens contained herein. Failure of the Residential Association, Declarant, 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 XI

ANNEXATION OF ADDITIONAL PROPERTY

SECTION 1. ANNEXATION. The Declarant, as the owner thereof or, if not the Owner, with the consent of the Owner thereof, shall have the unilateral right, privilege, and option at any time to subject any portion of the Aggregate Property, to the provisions of this Declaration and the jurisdiction of the Residential Association by filing for record one or more Supplemental Declarations in respect to the property being annexed. Any such annexation shall be effective upon the filing for record of such

Supplemental Declaration unless otherwise provided therein. The rights reserved unto Declarant to subject additional land to this Declaration shall not and shall not be implied or construed so as to impose any obligation upon Declarant to subject any of such land to this Declaration or to the jurisdiction of the Residential Association. If such additional land is not subjected to this Declaration, Declarant's reserved rights shall not impose any obligation on Declarant to impose any covenants and restrictions similar to those contained herein upon such land nor shall such rights in any manner limit or restrict the use to which such land may be put by Declarant or by any subsequent owner thereof, whether such uses are consistent with the covenants and restrictions imposed hereby or not.

SECTION 2. OTHER ANNEXATIONS. With the consent of the owner thereof, the Residential Association may annex real property other than the Aggregate Property to the provisions of this Declaration and the jurisdiction of the Residential Association. Such annexation shall require the affirmative vote of two-thirds (2/3) of the total votes of the Members of the Residential Association present at a meeting duly called for such purpose.

Annexation shall be accomplished by filing of record in the public records of Harris County, Texas, a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Residential Association, and by the owner of the property being annexed, and any such annexation shall be effective upon filing unless otherwise provided therein. The relevant provisions of the By-Laws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and the proper form of notice of any meeting called for the purpose of considering annexation of property pursuant to this Article X, Section 2 and to ascertain the presence of a quorum at such meeting.

ARTICLE XII

GENERAL PROVISIONS

SECTION 1. GENERAL. 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 these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the owners of a majority of the Lots in the Properties has been recorded, agreeing to change or terminate the covenants herein, in whole or in part.

SECTION 2. AMENDMENT. Subject to the provisions of Section I of this Article XII, this Declaration may be amended by an instrument executed by the Owners of fifty-one percent (51%) of the Lots in the Properties. Any amendment must be properly recorded in the office of the County Clerk of Harris County, Texas, prior to its becoming effective.

SECTION 3. SEVERABILITY. Invalidation of any one 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 4. 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 5. TITLES. The titles of this Declaration of Articles and Sections contained herein are included for convenience only and shall not be used to construe, interpret, or limit the meaning of any term or provision contained in this Declaration.

SECTION 6. REPLAT. Declarant shall have the right, but shall never be obligated, to subdivide into Lots, by recorded plat or in any lawful manner, any reserve tracts contained within the Properties and such Lots as replat shall be subject to these restrictions as if such Lots were originally included herein.

SECTION 7. MERGER AND CONSOLIDATION. Upon a merger or consolidation of the Residential Association with another nonprofit corporation organized for the same purposes, the Residential 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 Residential Association as a surviving corporation pursuant to a merger. The surviving or consolidated association shall administer the covenants, conditions and restrictions established by this 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 Declaration and no merger or consolidation shall be permitted except with the assent of two-thirds (2/3rds) of the total vote of eligible Members of the Residential Association.

SECTION 8. DISSOLUTION. The Residential Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3rds) of the total vote of eligible Members. Upon dissolution of the Residential Association, other than incident to a merger or consolidation, the assets of the Residential Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which the Residential Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

IN WITNESS WHEREOF, this Declaration is executed this 18th day of July, 1998 6/17/98

DECLARANT:

THE TIMBERGATE JOINT VENTURE OF TEXAS, INC.

By: [Signature]
Edwin R. Sanford,
5200 San Felipe
Houston, Texas 77056

TIMBERGATE HOMEOWNERS' ASSOCIATION, INC.

By: [Signature]
Jim Oster, President
5200 San Felipe
Houston, Texas 77056

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LEINHOLDER:

RIVERWAY BANK

By: [Signature]
Bruce Barclay, Vice President

GATEWAY HOMES INC. (OWNER)

By: [Signature]
Tyler D. Todd, Vice President

GROUP AMERICA

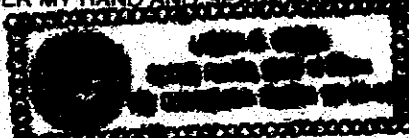
By: [Signature]
Dale Couch, President

THE STATE OF TEXAS §

COUNTY OF HARRIS §

Before me, the undersigned authority, on this day appeared Edwin R. Sanford, Partner ^{Ltd. Partnership} of The Timbergate Joint Venture of Texas, Inc. a Texas corporation, and being duly sworn, he acknowledged to me that he executed the foregoing document for the purposes therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 18th day of July, 1996



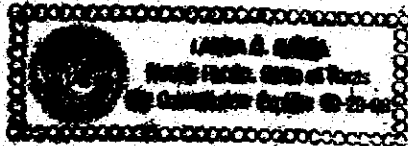
Paul C. Johnson
Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF HARRIS §

Before me, the undersigned authority, on this day appeared Jim Oster, President of TIMBERGATE HOMEOWNERS' ASSOCIATION, INC., a Texas corporation, and being duly sworn, he acknowledged to me that he executed the foregoing document for the purposes therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 18th day of July, 1996



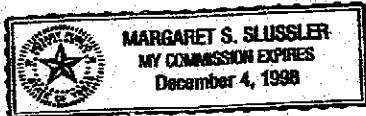
Paul C. Johnson
Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF HARRIS §

Before me, the undersigned authority, on this day appeared Tyler D. Todd, Vice President, of The Gateway Homes Inc. a Texas corporation, and being duly sworn, he acknowledged to me that he executed the foregoing document for the purposes therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 18th day of July, 1996

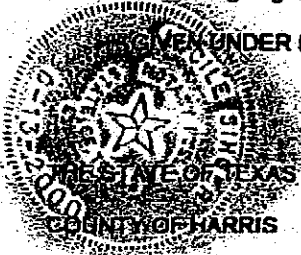


Margaret S. Slussler
Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF HARRIS §

Before me, the undersigned authority, on this day appeared Bruce Barclay, Vice President of The Riverway Bank, a Texas corporation, and being duly sworn, he acknowledged to me that he executed the foregoing document for the purposes therein expressed, and in the capacity therein stated.



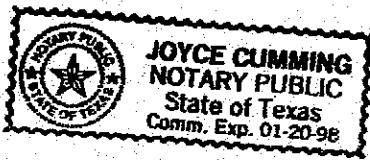
GIVEN UNDER MY HAND AND SEAL OF OFFICE this 18th day of July 1996.

[Signature]
Notary Public, State of Texas

Before me, the undersigned authority, on this day appeared Dale Couch, Vice President of The Group America, a Texas corporation, and being duly sworn, he acknowledged to me that he executed the foregoing document for the purposes therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 18th day of July 1996.

[Signature]
Notary Public, State of Texas



ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, REDEMPTION, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS VOID AND UNENFORCEABLE UNDER FEDERAL LAW.
THE STATE OF TEXAS
COUNTY OF HARRIS
I hereby certify that this instrument was FILED in File Number Sequence on this date and at the time stamped herein by me; and was duly RECORDED, in the Official Public Records of Real Property of Harris County, Texas on.

JUL 23 1996



[Signature]
COUNTY CLERK
HARRIS COUNTY TEXAS

FILED
96 JUL 23 PM 1:51
COUNTY CLERK
HARRIS COUNTY, TEXAS

RECORDER'S MEMORANDUM
ALL BLANKETS, AMENDMENTS AND CHANGES
WERE PRESENT AT THE TIME THE INSTRUMENT
WAS FILED AND RECORDED.

RETURN TO:
KIM WILLIAMS
P. O. Box 1504
Houston, TX 77251-1504

**AMENDMENT TO THE SUPPLEMENTAL DECLARATION OF
COVENANTS, CONDITIONS & RESTRICTIONS FOR
TIMBERGATE, SECTION 1**

THE STATE OF TEXAS §
 § **KNOW ALL MEN BY THESE PRESENTS THAT:**
COUNTY OF HARRIS §

THIS AMENDMENT to the Supplemental Declaration of Covenants, Conditions & Restrictions for Timbergate, Section 1, made as of the date hereinafter set forth by Timbergate Joint Venture, a Texas joint venture (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant adopted and established restrictive covenants applicable to the lots in Timbergate, Section 1, a subdivision of land in Harris County, Texas according to the plat thereof recorded under Film Code No. 371008 in the Map Records of Harris County, Texas, by that certain Supplemental Declaration of Covenants, Conditions & Restrictions (the "Declaration") dated July 18, 1996, filed under Harris County Clerk's File No. S-031044 and recorded in the Official Public Records of Real Property of Harris County, Texas; and

WHEREAS, Declarant owns not less than fifty-one percent (51%) of the Lots subject to the Declaration and wishes to amend the Declaration pursuant to Section 2 of Article XII in certain respects as hereinafter specified.

NOW, THEREFORE, Declarant hereby declares as follows:

1. The first sentence of Section 1 of Article XI of the Declaration is amended and restated to read as follows:

"SECTION 1. ANNEXATION. The Declarant, as the Owner thereof or, if not the Owner, with the consent of the Owner thereof, shall have the unilateral right, privilege, and option at any time to subject any portion of the Aggregate Property, to the provisions of this Declaration and the jurisdiction of the Residential Association by filing one or more Supplemental Declarations in respect to the property being annexed; provided, however, as long as there is a Class B membership, any such annexation by the Declarant must also be approved by the U.S. Department of Housing and Urban Development or by the Veterans Administration."

2. Section 2 of Article XI of the Declaration is amended to provide that any amendment of the Declaration must be signed by the Owners of not less than two-thirds (2/3rds) of the Lots in the Properties.

3. Article XII of the Declaration is hereby amended by the addition of the following Section 9:

"Section 9. HUD/VA Approval. As long as there is a Class B membership in the Association, the annexation of additional properties, the dedication of Common Area, and the amendment of this Declaration shall require the prior approval of the U.S. Department of Housing and Urban Development or the Veterans Administration."

4. Except as expressly amended hereby, the Declaration is not affected hereby and the same is ratified as being in full force and effect.

Executed as of the 18th day of JUNE, 1997.

TIMBERGATE JOINT VENTURE

By: 

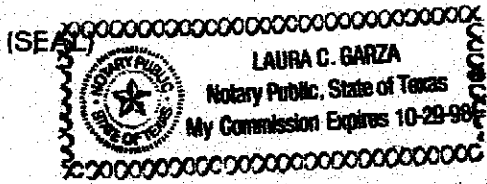
BRADLEY R. FREELS, EXEC. VICE PRES.

Its: GENERAL PARTNER

MIDWAY RESIDENTIAL CORPORATION

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 18th day of June, 1997 by Bradley D. Freels VP General Partner, ^{Timbergate Joint Venture, LP} of Timbergate Joint Venture, a Texas joint venture, on behalf of said joint venture.



Laura C. Garza
Notary Public in and for
The State of Texas

Laura C. Garza
Name printed or typed
My commission expires:
10-29-98