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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR BOIS'D ARC ESTATES, AN UNRECORDED SUBDIVISION
IN FORT BEND COUNTY, TEXAS

THE STATE OF TEXAS §
COUNTY OF FORT BEND §

This Declaration made by ELLIS CATTLE COMPANY, a Texas corporation, having its principal office in Houston, Harris County, Texas, and HOMER H. SCOTT, hereinafter collectively called "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of the real property described in Article III of this Declaration and desires to create thereon a residential community with designated "lots" (as that term is defined herein) for the benefit of the present owner of the real property described in Article III and the future owners of said Lots; and

WHEREAS, it is the desire of Declarant to place certain restrictions, covenants, conditions, stipulations and reservations upon and against the real property described in Article III in order to establish a uniform plan for the development, improvements and sale of such property, and to insure the preservation of such uniform plan for the benefit of both the present owner of the real property described in Article III and the future owners of said Lots in the said real property;

NOW, THEREFORE, Declarant hereby adopts, establishes and imposes upon the real property described in Article III and declares the following reservations, easements, restrictions, covenants and conditions applicable thereto, all of which are for the purpose of enhancing and protecting the value, desirability of attractiveness of the land, which reservations, easements, covenants, restrictions and conditions shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest therein, or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I

Definitions

Section 1. "Association" shall mean and refer to BOIS'D ARC ESTATES HOMEOWNERS ASSOCIATION, INC., its successors and assigns, provided for in Article VI hereof.

Section 2. "Properties" shall mean and refer to the real properties described in Article III hereof which are subject to this Declaration.

Section 3. "The Subdivision" shall mean and refer to the Properties and any additional properties which may hereafter be brought within the scheme of this Declaration pursuant to the provisions set forth herein and hereafter brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to that portion of the Properties described by metes and bounds in each and every Deed conveying a fee simple title in and to any portion of the Properties from Declarant to any Owner (unless such Deed specifies otherwise). In all, contracts, deeds, other conveyances, mortgages, deeds of trust, releases and other legal instruments, each Lot shall be described by the metes and bounds description thereof unless Declarant, subsequent to the date hereof, shall elect to record a plat of the Properties depicting the Lots thereon, whereupon description of the Lots shall be by reference to such recorded

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plat. "Lots" shall mean and refer to more than one of the Lots described in this Section 4. of Article I.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation and those having only an interest in the mineral estate.

Section 6. "Architectural Control Committee" shall mean and refer to BOIS d ARC Estates Architectural Control Committee provided for in Article V hereof.

Section 7. "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article VI, Section 4. hereof.

Section 8. "Declarant" shall mean and refer to ELLIS CATTLE COMPANY, a Texas corporation, and HOMER H. SCOTT, their heirs, successors and assigns, if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II

Reservations, Exceptions and Dedications

Section 1. Existing Easements. Declarant and Declarant's predecessors in title have heretofore reserved, created and dedicated by separate recorded instruments, utility easements in favor of public utility companies, and municipal and other governmental authorities servicing the Properties as shown and provided in such separate, recorded instruments, and such instruments are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or other conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Properties.

Section 2. Changes and Additions. Declarant reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing the improvements. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other person or entity, to grant, dedicate, reserve or otherwise create, at any time or from time to time, easements for public utility purposes (including, without limitation, gas, electricity, telephone, and drainage) in favor of any person or entity furnishing or to furnish utility services to the Properties, along and on either or both sides of any Lot line, as required by such company or authority providing the utility service.

Section 3. Title to Easements and Appurtenances Not Conveyed. It is expressly agreed and understood that the title conveyed by Declarant to any Lot or parcel of land within the Properties by contract, deed or other conveyance shall be subject to (a) any easement affecting same for roadways or drainage, water, gas, sewer, storm sewer, electric light, electric power, telegraph, telephone or other utility purposes and shall convey no interest in any pipes, lines, poles or conduits, or in any utility facility or appurtenances thereto, constructed by or under Declarant or any easement owner, or their agents through, along or upon the premises affected thereby, or any part thereof, to serve said land or any other portion of the Properties and (b) the right of Declarant, its successors and assigns, to maintain, repair, sell or lease such appurtenances to any municipality or other governmental agency or to any public service corporation or to any other party (and such right is hereby expressly reserved).

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Section 4. Installation and Maintenance. There is hereby created an easement upon, across, over and under all of the Properties for ingress and egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, telephone, electricity, gas and appurtenances thereto. By virtue of this easement, it shall be expressly permissible for the utility companies and other entities supplying service to affix and maintain pipes, wires, conduits, service lines or other utility facilities or appurtenances thereto, on, above, across and under the Properties. Notwithstanding anything to the contrary contained in this paragraph, no sewer, electrical lines, water lines, or other utilities or appurtenances thereto may be installed or relocated on the Properties until approved by Declarant or the Association's Board of Directors. The utility companies furnishing service shall have the right to remove all trees situated within utility easements, and to trim overhanging trees and shrubs located on portions of the Properties abutting such easements.

Section 5. Emergency and Service Vehicles. An easement is hereby granted to all police, fire protection, ambulance and other emergency vehicles and to postal service employees and vehicles to enter upon the Properties in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and management personnel to enter the Properties to render any service.

Section 6. Surface Areas. The surface of easement areas for underground utilities may be paved for streets, driveways and may be used for planting of shrubbery, trees, lawns and flowers and the construction of fences to the extent permitted in Article IV hereof. However, it is expressly agreed that neither the Declarant nor any supplier of any utility or service using any easement area shall be liable to any Owner or the Association for any damage done by them or either of them or their agents, employees, servants or assigns, to the pavement or to any of the aforesaid vegetation or fencing as a result of any activity relating to the construction, maintenance or repair of any facility in any such easement area.

ARTICLE III

Property Covered by this Declaration

Section 1. Description. The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Declaration consists of the following:

All that certain tract or parcel of land described in Exhibit "A", attached hereto and incorporated herein for all purposes.

Section 2. Mineral Exception. There is hereby excepted from the Properties and Declarant will hereafter except from all its sales and conveyances of the Properties, or any part thereof, all oil, gas, and other minerals in, on, and under the Properties except with respect to that certain real property more particularly described in Exhibit "B", attached hereto and made a part hereof for all purposes, out of which Declarant may hereafter designate a two (2) acre drill site by the recording of appropriate instruments. Declarant hereby waives, and will waive in each such conveyance, its rights to use the surface of the Properties except for that portion of the Properties designated as a drill site, for exploration for or development of oil, gas, or other minerals.

ARTICLE IV

Use and Building Restrictions

Section 1. Land Use and Building Type. All Lots shall be known, described and used as Lots for residential purposes only

(hereinafter sometimes referred to as "residential lots"), and no structure shall be erected, altered, placed, or permitted to remain on any residential lot other than one single-family dwelling not to exceed two (2) stories in height, and a garage or carport for one (1) or more, but not more than three (3) cars and quarters for bona fide domestic employees; provided that the Architectural Control Committee may, in its discretion, permit a garage for more than three (3) cars, such permission to be granted in writing as hereinafter provided. As used herein, the term "residential purposes" shall be construed to prohibit the use of the lots for duplex houses, garage apartments, or apartment houses; and no lot shall be used for business or professional purposes of any kind, nor for any commercial or manufacturing purpose. No portable or temporary or used building of any kind or character or mobile home shall ever be moved onto any lot, it being the intention that only new construction meeting the requirements hereof shall be placed and erected thereon.

All exterior construction of the Residential Structure, garage, porches and any other appurtenances or appendages of every kind and character on any lot and all interior construction (including but not limited to, all electrical outlets in place and functional, all plumbing fixtures installed and operational and connected to the sewage and drainage system or systems, all cabinet work completed, all interior walls, ceiling, and doors completed and covered by paint, wallpaper, paneling, or the like, and all floors covered by wood, carpet, tile or other similar floor covering) shall be completed not later than one (1) year following the commencement of construction. For the purposes hereof, the term "commencement of construction" shall be deemed to mean the date on which the first foundation forms are set.

Section 2. Architectural Control. No building or other structure shall be erected, placed or altered on any lot until the construction plans and specifications therefor and a plot plan showing the location of the structure thereon have been approved by the Architectural Control Committee as to harmony with existing structures, with respect to exterior design and color with existing structures, as to location with respect to topography and finished grade elevation as to compliance with minimum construction standards, all as more fully provided for in this Article IV and Article V hereof.

Section 3. Dwelling Size. The ground floor of the main Residential Structure, exclusive of open or screened-in porches, carports and garages, shall not be less than 1400 square feet for a one (1) story dwelling nor shall the ground floor area plus the upper floor area of a one and one-half (1-1/2) or a two (2) story dwelling be less than 1800 square feet.

Section 4. Type of Construction and Materials.

(a) Each Residential Structure and other outbuildings shall have masonry construction and/or natural wood siding on the exterior wall area of a type and design approved by the Architectural Control Committee.

(b) External roofing material shall be wood, composition or other material of long lasting quality approved by the Architectural Control Committee.

(c) In all cases where fencing is installed forward of the front building lines as established in Section 5. below, said fencing shall, at a minimum, be constructed of new material, have no less than four (4) strands of barbed wire, have treated creosote (or like) posts three (3) inches in diameter on eight (8) foot centers and be no less than four (4) feet in height. All front fencing shall be approved by the Architectural Control Committee prior to installation.

(d) Culverts constructed on any Lot in connection with the construction of a driveway are to have a minimum inside diameter of eighteen (18) inches and be of reinforced concrete.

(e) The main Residential Structure and garage shall be constructed of new building materials and shall conform with minimum construction standards as promulgated from time to time by the Federal Housing Administration or the Veteran's Administration with respect to single family detached housing constructed in residential subdivisions.

Section 5. Building Location. No portion of any main Residential Structure, garage or carport shall be erected closer than seventy-five (75) feet to the front property line [fifty (50) feet on cul-de-sacs], and no portion of any accessory building shall be erected closer than one hundred (100) feet to said front property line [seventy-five (75) feet on cul-de-sacs]. For the purpose of this Section 5., air conditioning compressors, eaves, steps and open porches shall not be considered as a part of the building; provided, however, that this shall not be construed to permit any portion of a building on any Lot to encroach upon another Lot. The front property line shall be the shortest property line of each Lot which is closest, and parallel or adjacent to the street.

Section 6. Resubdivided Lots. No Lot shall be resubdivided without the express written consent of the Architectural Control Committee and in no event shall any Lot be resubdivided unless such resubdivision results in each parcel of such resubdivided Lot containing not less than 54,000 square feet of land. Provided, however, Declarant shall have and reserves the right, at any time, or from time to time, upon the joinder and consent of the Board of Directors of the Association, but without the joinder and consent of any other party, to effect a resubdivision or reconfiguration of any Lots in the Properties then owned by Declarant. The privilege to resubdivide Lots in the Properties owned by Declarant reserved in this Section 6. shall be exercisable only by Declarant or any successor to Declarant's ownership of such Lots who acquires such ownership other than by purchase, and such privilege shall not be exercisable by, inure to the benefit of, or be assignable to any purchaser from Declarant or from any successor or assign of Declarant, of any Lot in the Properties.

Section 7. Annoyance or Nuisances.

(a) No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood or the other Owners.

(b) In the area forward of the front building line with regard to animals, only horses, cows and pets of the domestic type shall be allowed. All other animals shall be kept on the rear portion of the Property, that being behind the front building line. In the event any animals so kept shall become a nuisance or annoyance, Declarant may compel their removal. Any stable facility or barn, as well as the grounds where animals are kept, must be maintained in a neat, clean and orderly manner. In any case where animals are permitted, other than household pets, any fences, stable facilities, cages, or outbuilding constructed in connection with the maintenance of such animals, must be submitted to and approved by the Architectural Control Committee prior to its construction. All such permitted buildings as well as the grounds where such animals are kept shall at all times, be maintained in a neat, clean and orderly condition.

(c) No spiritous, vinous, malt liquor or medicated bitters capable of producing intoxication shall ever be sold or offered for sale on any Lot, or any part of the Properties, nor shall any Lot or any part thereof be used for illegal or immoral purposes.

(d) No truck, trailer, boat, automobile, motor home or other vehicle shall be stored, parked, or kept on any Lot or in the street in

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front of the Lot unless such vehicle is in day-to-day use off the premises and such parking is only temporary, from day-to-day; provided, however, that nothing herein contained shall be construed to prohibit the storage of an unused vehicle in an enclosed garage on any Lot.

(e) No cesspool or outside toilet shall be permitted on any Lot. Septic tanks will be permitted on each Lot but their construction and location shall comply with all existing state, county, and other laws and regulations relating thereto, and the plans and specifications therefor must be expressly approved by the Architectural Control Committee prior to their construction. Notwithstanding the above, no septic tank shall ever be constructed and maintained nearer than twenty-five (25) feet from any interior Lot line and not nearer than fifty (50) feet from any roadway or street right-of-way line located inside a Lot line. No septic tank shall be used in connection with structures other than those upon the Lot upon which it is constructed. No more than two (2) septic tanks may be constructed and maintained on any Lot unless the Owner of such Lot secures a certificate from a registered professional civil engineer that the construction, location and maintenance of more than two (2) septic tanks will not create any pollution danger or nuisance to adjoining Lot owners. A sanitary control easement with a one hundred fifty (150) foot radius is to be maintained around dedicated water well sites for the benefit of residents. Drainfields and septic tanks are restricted from installation in this control easement. At such time that a central sewage system is installed in the Subdivision, each Owner, at the time such system becomes available for use by such Owner, shall, not later than the first day of the month next following such system's availability to such Owner, cause all structures situated on his Lot to be connected to such central sewer system and cease use of the septic tank(s). Thereafter, the installation and/or use of septic tanks shall be prohibited.

(f) No firearms or fireworks of any kind shall be discharged on the Properties.

(g) Motor bikes, motorcycles, motor scooters or other vehicles of that type shall not be permitted if they are a nuisance by reason of noise or manner of use in the opinion of Declarant.

(h) No dam, earthen fill or obstruction of any kind shall be constructed or permitted to remain in any creek, water course or drainage course of a height greater than three (3) feet above the natural grade without the prior written consent of Declarant or its assigns.

(i) No repair work, dismantling, or assembling of motor vehicles or any other machinery or equipment shall be done on any street or roadway within the Properties, or in any front or side yard of any Lot or on any portion of the Lot where such repair work, dismantling or assembling may be viewed from any street or roadway within the Properties.

Section 8. Temporary Structures. In accordance herewith, no structure of a temporary character, whether basement or tent or otherwise shall ever be maintained or used on any Lot at any time as a residence either temporarily or permanently. 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 be necessary or convenient while selling Lots, selling or constructing residences and constructing other improvements upon the Properties. Such facilities may include, but not necessarily be limited to sales and construction offices, storage areas, model units, signs and portable toilet facilities. Additionally, Owners may construct or cause to be maintained on their Lot such storage and maintenance buildings as are necessary, provided such facilities shall be located to the rear of the residence on the Lot and otherwise in compliance with the architectural standards set forth herein.

Section 9. Signs and Billboards. No signs, billboards, posters or advertising devices of any character shall be erected,

permitted or maintained on any Lot except one sign of not more than four (4) square feet advertising the particular Lot on which the sign is situated for sale or rent. The right is reserved by Declarant to construct and maintain such signs, billboards or advertising devices as is customary in connection with the general sale of Property in the Subdivision. In no event shall any sign, billboard, poster or advertising device of any character, other than as specifically prescribed in the first sentence of this Section 9., be erected, permitted or maintained on any Lot without the express prior written consent of the Architectural Control Committee.

The term "Declarant" as used in this Section 9. and Section 8. above shall refer to Declarant as defined in Article I of this Declaration and such of its successors or assigns to whom the rights under this Section 9. and/or Section 8. above are expressly and specifically transferred.

Section 10. Storage and Disposal of Garbage and Refuse. No Lot shall be used or maintained as a dumping ground for rubbish, garbage, trash, junk or other waste matter. Trash, garbage, or other waste materials shall not be kept except in sanitary containers constructed of metal, plastic or masonry materials with sanitary covers or lids. Equipment for the storage or disposal of such waste materials shall be kept in clean and sanitary condition. No Lot shall be used for the open storage of any materials whatsoever, which storage is visible from the street, except that new building materials used in the 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.

ARTICLE V

Architectural Control Committee

Section 1. Approval of Building Plans. No Residential Structure or other permitted building or structure shall be erected, placed, or altered on any Lot until the construction plans and specifications and a plot plan showing the location thereof have been approved in writing as to harmony of exterior design and color with existing structures, as to location with respect to topography, finished ground elevation and orientation relative to Lot lines and building setback lines, and as to compliance with minimum construction standards by the Architectural Control Committee. A copy of the construction plans and specifications and a plot plan, together with such information as may be deemed pertinent, shall be submitted to the Architectural Control Committee, or its designated representative, prior to commencement of construction upon any Lot. The Architectural Control Committee may require the submission of such plans, specifications and plot plans, together with such other documents as it deems appropriate, in such form and detail as it may elect at its entire discretion. In the event the Architectural Control Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the same are submitted to it, approval will not be required and the requirements of this Section will be deemed to have been fully complied with; provided, however, failure to timely approve or disapprove such plans and specifications shall not be deemed to permit the erection, construction, or altering of any Residential Structure, or any other structure on any Lot in a manner prohibited under the terms of this Declaration.

Section 2. Committee Membership. The Architectural Control Committee shall be initially composed of Billie J. Ellis, Homer H. Scott and Lea Beasley, who by majority vote may designate a representative to act for them.

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Section 3. Replacement. In the event of death or resignation of any member or members of said Committee, the remaining member or members shall appoint a successor member or members, and until such successor member or members shall have been so appointed, the remaining member or members shall have full authority to approve or disapprove plans, specifications and plot plans submitted or to designate a representative with like authority.

Section 4. Minimum Construction Standards. The Architectural Control Committee may from time to time promulgate an outline of minimum acceptable construction standards and specifications provided, however, that such outline will serve as a minimum guideline and such Architectural Control Committee shall not be bound thereby.

Section 5. Term. The duties and powers of the Architectural Control Committee and of the designated representative may be assigned at any time, at the election of a majority of the members of the Architectural Control Committee, to the Board of Directors of the Association. In any event after ten (10) years from the date hereof, the Board of Directors of the Association shall assume the duties and powers of the Architectural Control Committee, and thereafter the Board of Directors of the Association shall have all of the rights, benefits, and powers provided herein for the Architectural Control Committee.

Section 6. Variances. Article IV of this Declaration contains a number of provisions wherein the Architectural Control Committee is expressly granted the authority, in its discretion, to permit variances from a particular requirement of construction. The Architectural Control Committee may require the submission to it of such documents and items (including, as examples but without limitation, written request for and description of the variances requested, plans, specifications, plot plans and sample of materials) as it shall deem appropriate, in connection with its consideration of a request for a variance. If the Architectural Control Committee shall approve such request for a variance, the Architectural Control Committee may evidence such approval, and grant its permission for such variance, only by written instrument, addressed to the Owner of the Lot(s) relative to which such variance has been requested, describing the applicable restrictive covenant(s) and the particular variance requested, expressing the decision of the Architectural Control Committee to permit the variance, describing (when applicable) the conditions on which the variance has been approved (including, as examples but without limitation, the type of alternative materials to be permitted or the alternate fence height approved), and signed by a majority of the then members of the Architectural Control Committee (or by the Committee's designated representative if one has been designated under the authority contained in Section 2, above). Any request for a variance shall be deemed to have been disapproved for the purposes hereof in the event of either (a) written notice of disapproval from the Architectural Control Committee; or (b) failure by the Architectural Control Committee to respond to the request for variance within thirty (30) days after it has been submitted. In the event the Architectural Control Committee or any successor to the authority thereof shall not then be functioning, no variances from the covenants of this Declaration shall be permitted, it being the intention of Declarant that no variances be available except in the discretion of the Architectural Control Committee or, if it shall have succeeded to the authority of the Architectural Control Committee in the manner provided herein, the Board of Directors of the Association. The Architectural Control Committee shall have no authority to approve any variance except as expressly provided in this Declaration.

ARTICLE VI

Bols'd Arc Estates Homeowners Association, Inc.

Section 1. Organization. The Association has been organized and formed as a non-profit corporation under the laws of the State of Texas.

Section 2. Purpose. The purpose of the Association in general is to provide for and promote the health, safety and welfare of the Members, to collect the annual maintenance charges and to administer the Maintenance Fund to provide for the maintenance, repair, preservation, upkeep and protection of the Properties and such other purposes as are stated in its Articles of Incorporation consistent with the provisions of this Declaration.

Section 3. Directors. The Association shall act through a five (5) member Board of Directors, which shall manage the affairs of the Association. The Initial Directors of the Association have been selected by Declarant. Each Initial Director shall serve until his successor is duly elected and qualified in accordance with the Articles of Incorporation of the Association. Any vacancy, from whatever cause, occurring in the Board of Directors during its term shall be filled by appointment made by the remaining Director or Directors. The person appointed by the remaining Director or Directors to fill such vacancy shall serve for the remainder of the term and until his successor is duly elected and qualified. The Directors shall have the power to select one or more advisory directors from the residents of the Subdivision to serve for such periods of time as the Board of Directors shall deem appropriate, for the purpose of providing advice and counsel to the Board of Directors, provided that such advisory directors shall have no right to act on behalf of the Association.

Section 4. Members. The Declarant, for so long as it owns any portion of the Properties and each Owner, whether one or more persons or entities, of a Lot in the Subdivision shall, upon and by virtue of becoming such Owner, automatically become a Member of the Association and shall remain a Member thereof until his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership in the Association shall be appurtenant to and shall automatically follow the legal ownership of each Lot in the Subdivision and may not be separated from such ownership. Whenever the legal ownership of any Lot in the Subdivision passes from one person to another, by whatever means, it shall not be necessary that any instrument provide for transfer of membership in the Association, and no certificate of membership will be issued.

Section 5. Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all the Members of the Association, with the exception of the Declarant. Class A Members shall be entitled to one vote for each Lot in the Subdivision in which they hold the interest required for membership by this Declaration. When more than one person holds such interest or interests in any such Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine, but, in no event, shall more than one vote be cast with respect to any such Lot.

Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to three (3) votes for each Lot in the Subdivision in which it holds the interest required for membership by this Declaration; provided that the Class B membership shall cease and become converted to Class A membership on the happening of whichever of the following events occurs earlier:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership;

(b) on January 1, 1986.

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From and after the happening of whichever of these events occurs earlier, the Class B Member shall be deemed to be a Class A Member entitled to one (1) vote for each Lot in the Subdivision in which it holds the interest required for membership by the Declaration or any Supplemental Declaration.

ARTICLE VII

Covenants for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Lot in the Properties is hereby subjected to an annual maintenance charge, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is hereby conclusively deemed to covenant and agree, as a covenant running with the land, to pay to the Association, its successors and assigns, each and all of the annual maintenance charge assessments against his Lot as the same shall become due and payable, without demand. Such assessments shall be established and collected as hereinafter provided and shall constitute the proceeds of a fund (herein called the "Maintenance Fund") to be used for the purposes hereinafter provided. The annual maintenance charge assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot, together with all improvements thereon, against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time assessments became 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 annual maintenance charge assessments shall be used to promote the recreation, health, safety and welfare of the residents in the Subdivision, and the Association shall use the Maintenance Fund for the use and benefit of all residents of the Subdivision; provided, however, that each future section of the Subdivision (and any other property or properties included in the Subdivision), to be entitled to the benefit of this Maintenance Fund, must be impressed with and subjected to an annual maintenance charge and assessment on a uniform, per Lot basis, substantially equivalent to the maintenance charge and assessment imposed hereby, and further made subject to the jurisdiction of the Association in the manner provided in Article VIII hereof. The uses and benefits to be provided by said Association shall include, by way of example but without limitation, at its sole option, any and all of the following: maintaining parkways, rights-of-way, streets, easements and esplanades; furnishing and maintaining landscaping, lighting and beautification of the Subdivision; payment of all legal and other expenses incurred in connection with the enforcement of all recorded charges and assessments, covenants, restrictions, and conditions affecting the Subdivision; payment of all reasonable and necessary expenses in connection with the collection and administration of the maintenance charge and assessment; employing policemen and watchmen; and doing such other things and taking such other actions as are necessary or desirable in the opinion of the Association to keep the Subdivision neat and in good order, or which is considered of general benefit to the Owners or occupants of the Lots in the Subdivision, it being understood that the judgment of the Association in the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

In the event Declarant shall designate and set aside an area of land owned by Declarant (or affiliated or subsidiary entities) (whether within the Subdivision or not) and the facilities thereon (if any) for the common use and benefit of all Owners of any portion of the Properties, the Association shall have the right and authority to allocate and expend such amounts from the maintenance fund for repair, maintenance, upkeep,

beautification, improvement or replacement of such property and facilities as its Board of Directors shall determine, in its sole discretion. Further, if all or any such property or facilities are not then subject to the plan of this Declaration and further, are also for the use and benefit of persons or entities other than Owners in the Subdivision, the Association shall have the right and authority to enter into agreements with other persons or entities enjoying the use and benefit of such property or facility (or their designee), in such instances and on such terms as its Board of Directors may deem appropriate and acceptable, obligating the Association to contribute from the Maintenance Fund a ratable portion of the amounts necessary from time to time to provide for the repair, maintenance, upkeep, beautification, improvement, or replacement of such property or facilities, and providing for other agreements relative to the use and enjoyment of such property and facilities (including limitations on the extent of the use and enjoyment thereof) by the various persons or entities entitled thereto.

Section 3. Covenants for Assessments. Subject to the provisions set forth below in Section 5 relating to the rate at which the maintenance charge and assessment imposed herein shall be paid on unimproved Lots, each and every Lot in the Properties (other than those owned by Declarant) is hereby severally subject to and impressed with an annual maintenance charge or assessment in the amount of \$60.00 per Lot (hereinafter referred to as the "full maintenance charge") which shall run with the land, subject to increase and decrease as provided below.

The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Board of Directors to be the date of commencement. The first annual assessment shall be made for the balance of the calendar year in which it is made and shall be payable on the day fixed for commencement, or in equal monthly, quarterly or semi-annual installments, over the balance of the year, at the election of the Board of Directors of the Association. The assessments for each calendar year after the first year shall be due and payable to the Association in advance on January 1st of each year, or in equal monthly, quarterly or semi-annual installments over such year, at the election of the Board of Directors of the Association. Provided, however, that, upon the purchase of his Lot (as evidenced by the date of his term Contract of Sale or Deed, or his occupancy, whichever is earlier), each Member shall be obligated to pay to the Association a pro rata part of the applicable percentage (as determined pursuant to the terms hereof) of the regular annual maintenance charge assessed on such Lot, which shall bear the same ratio to the applicable percentage of the full annual maintenance charge as the number of full calendar months remaining in the year of purchase bears to twelve (12), and which shall be payable in full upon such purchase or in equal monthly, quarterly or semi-annual installments over the balance of the year of purchase, as the Board of Directors of the Association may elect.

The Board of Directors of the Association may decrease or increase the amount of the regular annual maintenance charge or assessment provided for herein at any time and from time to time by the adoption of a resolution for such purpose, but no resolution increasing the annual maintenance charge assessment shall become effective prior to the expiration of ninety (90) days from date of its adoption, and the Owner of each Lot shall, within thirty (30) days from such effective date, pay to the Association the proportionate part of such increase for the balance of the year in which such resolution is adopted; provided, however, that no resolution of the Board of Directors which fixes the amount of the regular annual maintenance charge or assessment on a Lot in excess of ten percent (10%) above the maximum permitted assessment for the previous year, or in excess of the annual maintenance charge or assessment last ratified by the Members of the Association in accordance with the provisions of this paragraph, whichever is greater, shall become effective unless and until such resolution is ratified either (i) by the written assent of the Members of the Association who in the aggregate then own at least fifty-one percent

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(51%) of the Lots in the Subdivision if no meeting of the membership is held for ratification, or (ii) by the assent of fifty-one percent (51%) of the votes of the Members of the Association who are present and voting in person or by proxy at a special meeting of the membership of the Association called for this purpose and at which a quorum is present. The written assent or the vote of the Members must be given prior to the effective date of the resolution of the Board of Directors. No increase in the annual maintenance charge or assessment shall take effect retroactively.

If any resolution of the Board of Directors which requires ratification by the assent of the Members of the Association as above provided shall fail to receive such assent, then the amount of the regular annual maintenance charge or assessment last in effect shall continue in effect until duly changed in accordance with the above provisions. ~~The Board of Directors may also call a special meeting of the membership of the Association for the purpose of ratification by the assent of the Members of the Association.~~

Section 4. Notice and Quorum for Any Action Authorized Under Section 3. Written notice of any meeting called for the purpose of taking any action authorized under Section 3, shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of 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 sixty (60) days following the preceding meeting.

Section 5. Rate of Assessments. The Board of Directors, in its discretion, may fix, by resolution specifying such amount, the annual assessment at any amount not in excess of the maximum then permitted under the terms of Section 3, above, and such annual assessment for the Lots shall be assessed and paid at the following uniform rates:

- (a) The rate for all Lots, other than those owned by Declarant, shall be fifty percent (50%) of the annual assessment fixed by the Board of Directors until the first day of the month following completion and occupancy of a permanent residence on such Lot; thereafter, such rate shall be one hundred percent (100%) of the annual assessment fixed by the Board of Directors.
- (b) The rate for all Lots owned by Declarant shall be deemed to be none (\$0.00).

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 6. 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 allowed by the laws of the State of Texas and, if placed in the hands of an attorney for collection or if suit is filed thereon or if collected through probate or other judicial proceedings, there shall be paid to the Association an additional reasonable amount, but not less than ten percent (10%) of the amount owing, as attorneys' fees. The Association may bring an action at law or equity against the Owner personally obligated to pay the same, or foreclose the lien created hereby against the Lot.

Section 7. Subordination of the Lien to Mortgages. The regular annual maintenance charges and assessments, as hereinabove provided for, shall constitute and be secured by a valid and subsisting lien,

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hereby created and fixed, which shall exist upon and against each lot and all improvements thereon, for the benefit of the Association and all Members. Subject to the conditions that the Association be made a party to any Court proceeding to enforce any lien hereinafter deemed to be superior, the lien hereby created shall be subordinate and inferior to:

(a) all liens for taxes or special assessments levied by the City, County and State governments, or any political subdivision or special district thereof, and

(b) all liens securing amounts due or to become due under any term Contract of Sale dated (or any mortgage, vendor's lien, or deed of trust filed for record) prior to the date payment of any such charges or assessments become due and payable, and

(c) all liens, including, but not limited to, vendor's liens, deeds of trust, and other security instruments which secure any loan made by any lender to an Owner for any part of the purchase price of any Lot when the same is purchased from a builder or another Owner or for any part of the cost of constructing, repairing, adding to, or remodeling the residence and appurtenances situated on any Lot to be utilized for residential purposes.

Any foreclosure of any such superior lien under the power of sale of any mortgage, deed of trust, or other security instrument, or through court proceedings in which the Association has been made a party, shall cut off and extinguish the liens securing maintenance assessments or special assessments which became due and payable prior to such foreclosure date, but no such foreclosures shall free any Lot from the liens securing assessments thereafter becoming due and payable, nor shall the liability of any Member personally obligated to pay maintenance assessments or special assessments which become due prior to such foreclosure, be extinguished by any foreclosure. No sale or transfer of a Lot shall relieve the Owner of such Lot from liability for any assessments theretofore having become due on such Lot from the lien thereof.

ARTICLE VIII

General Provisions

Section 1. Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of the Association and all Owners, their respective legal representatives, heirs, successors and assigns, for an initial term commencing on the effective date hereof and ending December 31, 2000. Upon the expiration of such initial term, said covenants and restrictions (if not previously terminated and as changed, if changed), and the enforcement rights relative thereto, shall be automatically extended for successive periods of ten (10) years. During such initial term and such ten (10) year extension periods, the covenants and restrictions of this Declaration may be changed or terminated only by an instrument signed by the then Owners of not less than fifty-one percent (51%) of all the Lots in the Subdivision or, if prior to the designation of all Lots in the Subdivision [in accordance with Section 4. of Article I hereof and in accordance with the applicable provisions of any Supplemental Declaration(s) with respect to any additional properties brought within the scheme of this Declaration as hereinafter provided], by the then Owners of not less than fifty-one percent (51%) of the area of land within the Properties, and properly recorded in the appropriate records of Fort Bend County, Texas.

Section 2. Enforcement. Declarant, or Declarant in and for the Association, and/or the Association, as a common expense to be paid out of the Maintenance Fund, or any Owner at his own expense, shall have the right to enforce by proceedings at law or in equity all restrictions, covenants, conditions, reservations, liens, charges, assessments and all

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other provisions set out in this Declaration, or any Supplemental Declaration, except as may be otherwise provided in such instruments. Failure of the Association or of any Owner to take any action upon any breach or default of or in respect to any of the foregoing shall not be deemed a waiver of their right to take enforcement action upon any subsequent breach or default.

Section 3. Amendments by Declarant. The Declarant shall have and reserves the right at any time, and from time to time, without the joinder or consent of any other party, to amend this Declaration by an instrument in writing, duly signed, acknowledged and filed for record for the purpose of correcting any typographical or grammatical error, ambiguity or inconsistency appearing herein, provided that any such amendment shall be consistent with and in furtherance of the general plan of development as evidenced by this Declaration and shall not impair or affect the vested property or other rights of any Owner or his mortgagee.

Section 4. Interpretation. If this Declaration, or any word, clause, sentence, paragraph or other part thereof shall be susceptible of more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration shall govern.

Section 5. Omissions. If any punctuation, word, clause, sentence or provision necessary to give meaning, validity or effect to any other word, clause, sentence or provision is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provision shall be supplied by inference.

Section 6. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 7. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporation or individuals, males or females, shall in all cases be assumed as though in each case fully expressed.

Section 8. Severability. [REDACTED] of any one or more of the covenants, restrictions, conditions or provisions contained in this Declaration, or any part thereof, shall in no manner affect any of the other covenants, restrictions, conditions or provisions hereof, which shall remain in full force and effect.

Section 9. Additions to Existing Property. Additional lands may become subject to the scheme of this Declaration in the following manner:

(a) Additions by Declarant. The Declarant, its successors and assigns, shall have the right to bring within the scheme of this Declaration additional properties in future stages of the development of the Subdivision, upon the approval of the Board of Directors of the Association, in its sole discretion. Any additions authorized under this and the succeeding subsection, shall be made by filing of record a Supplemental Declaration of Covenants and Restrictions with respect to the additional property which shall extend the scheme of the covenants and restrictions of this Declaration to such property and the execution thereof by members of the Board of Directors of the Association shall constitute all requisite evidence of the required approval thereof by such Board of Directors. Such Supplemental Declaration must impose an annual maintenance charge assessment on the property covered thereby, on a uniform, per lot basis, substantially equivalent to the maintenance charge and assessment imposed

DEED
413-874

by this Declaration, and may contain such complimentary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be applicable to the additional lands.

(b) Other Additions. Upon the approval of the Board of Directors of the Association, in its sole discretion, the Owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association may file of record a Supplemental Declaration of Covenants and Restrictions upon the satisfaction of the conditions specified in subsection (a) above.

(c) Mergers. Upon a merger or consolidation of the Association with another association, the Association's Properties, rights, and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may be added to the Properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association shall administer the covenants and restrictions applicable to the properties of the merging or consolidating associations as one plan. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants and restrictions established by this Declaration or any Supplemental Declaration.

Section 10. Approval of Lienholder. Gilbert H. Meier, Individually, and as Executor of the Estate of Frances H. Meier, deceased, the holder of the only lien on any portion of the Properties, joins in the execution hereof to evidence his consent to and ratification of the foregoing reservations, easements, covenants, restrictions, charges and conditions.

EXECUTED this 8th day of January, 1981.

ELLIS CATTLE COMPANY,
a Texas corporation

By *Billie L. Ellis*
BILLIE L. ELLIS, PRESIDENT

Hoher H. Scott
HOMER H. SCOTT

Gilbert H. Meier
GILBERT H. MEIER, Individually
and as Executor of the Estate of
FRANCES H. MEIER, Deceased

DEED
913 875

THE STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared BILLIE J. ELLIS, PRESIDENT of ELLIS CATTLE COMPANY, a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said ELLIS CATTLE COMPANY, that he executed the same as the act of such corporation for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 7 day of January, 1981.

Allen [Signature]
Notary Public in and for Harris
County, T e x a s

NOTARY PUBLIC
STATE OF TEXAS
My Commission Expires July 31, 1984

DEED
913-876

THE STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared HOMER H. SCOTT, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 8 day of January, 1981.

L. J. ...
Notary Public in and for Harris
County, Texas

NOTARY PUBLIC
My Commission Expires July 21, 1984

THE STATE OF TEXAS
COUNTY OF FORT BEND

DEED
913 877

BEFORE ME, the undersigned authority, on this day personally appeared GILBERT H. MEIER, Individually and as Executor of the Estate of FRANCES H. MEIER, Deceased, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacities therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 22 day of January, 1981.

Delynn Petrosky
Notary Public in and for Fort Bend
County, T e x a s
DELYNN PETROSKY

EXHIBIT "A"
PROPERTY DESCRIPTION

DEED
112 578

129.253 acres of land, more or less, out of the W. J. WALKER ESTATE land and being in the DAVID RANDON and I. PENNINGTON LEAGUE, Abstract 75, Fort Bend County, Texas, and described as follows, to-wit:

BEGIN at an iron pipe set at a corner post marking the Southeast corner of the Ronald T. Shefman, Trustee, 227.08 acre tract and said point also marking the Northeast corner of and Place of Beginning for this said 129.253 acre tract of land;

THENCE South 0° 36' 05" West, along a fence line, 1446.62 feet to an iron bar found marking the Southeast corner of this tract;

THENCE North 89° 59' 30" West, at 496.42 feet to the beginning of a 60 foot wide road easement, in all 2781.11 feet, continuing along a line in said 60 foot wide road easement, to an iron pipe set marking a point for angle;

THENCE North 89° 42' 30" West, along the South line of said 60 foot wide road easement, at 1082.50 feet to an iron pipe set, in all 1122.6 feet to a point marking the Southwest corner of this tract;

THENCE North 01° 13' 43" East, along a line in Bois D'Arc Lane (60 feet wide), 1440.19 feet to a point marking the Northwest corner of this tract;

THENCE North 89° 59' 30" East, at 27.70 feet pass an iron pipe set at a corner post, continuing along a fence line, in all 3888.00 feet to the Place of Beginning and containing 129.253 acres of land.

RETURN TO:
F. B. JONES
GUARDIAN TITLE COMPANY
350 Town and Country Village
Houston, Texas 77024

FILED FOR RECORD
11-15

FEB 9 1981

Pearl Callitt
COUNTY CLERK, FORT BEND COUNTY, TEX

FIRST AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
BOIS'D ARC ESTATES

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

WHEREAS, on January 8, 1981, the then owner of that certain land more particularly described in Exhibit "A", attached hereto and incorporated herein for all purposes, established a uniform plan for the development, improvement, sale and preservation of such property, for the benefit of both the present and future owners of lots in said subdivision; and

WHEREAS, on February 3, 1981, a Declaration of Covenants, Conditions and Restrictions, covering the property described in Exhibit "A" attached hereto, dated January 8, 1981, was recorded in Volume 943, Page 860 of the Deed Records of Fort Bend County, Texas (hereinafter referred to as "said Declaration"), establishing said uniform plan for the development, improvement, sale and preservation of the property within said subdivision for the benefit of both the present and future owners of lots in said subdivision; and

WHEREAS, Article VIII, Section 1, of said Declaration provides that same may be changed during the initial term by an instrument signed by the then owners of not less than fifty-one (51%) of all lots in the subdivision; and

WHEREAS, it is the desire of the undersigned, being at least a majority of the owners of the lots in the subdivision, to change said Declaration as hereinafter set out;

NOW, THEREFORE, at least a majority of the owners of the lots of the above described property do hereby adopt, establish and impose the following changes to the Declaration, which amendments and/or changes shall constitute covenants running with the title of the land and shall inure to the benefit of the undersigned and all other owners of lots within the property, their respective successors, assigns, heirs and representatives and to each and every purchaser of land in said addition and their successors, heirs, representatives and assigns.

Article IV, Section 3, of the Declaration is hereby amended to read as follows:

Section 3. Dwelling Size. The living area of the ground floor of the main Residential Structure, exclusive of open or screened-in porches, carports and garages, shall not be less than 1800 square feet for a one (1) story

dwelling. The living area of the ground floor area plus the upper floor area of a one and one-half (1-1/2) or a two (2) story dwelling, exclusive of open or screened-in porches, carports and garages, shall not be less than 2200 square feet.

Article IV, Section 11, of the Declaration is hereby added to read as follows:

Section 11. Lot Maintenance. The Owner or occupant of all Lots shall at all times keep all weeds and grass thereon cut in a sanitary, healthful and attractive manner and shall in no event use any Lot for storage of material and equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted. The accumulation of garbage, trash or rubbish of any kind or the burning (except as permitted by law) of any such material is prohibited. In the event of default on the part of the Owner or occupant of any Lot in observing the above requirements or any of them, such default continuing after fifteen (15) days' written notice thereof, Declarant, or its assigns, may without liability to Owner or occupant, but without being under any duty to do so, cut, or cause to be cut, such weeds and grass and remove or cause to be removed, such garbage, trash and rubbish or do any other thing necessary to secure compliance with the provisions of this Declaration and to place said Lot in a neat, attractive, healthful and sanitary condition, and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt thereof. The sum due, together with interest thereon at the maximum rate permitted by law, shall be a charge on the land and shall be a continuing lien upon the property against which sums are due.

The first paragraph of Article VII, Section 3, of the Declaration is hereby amended to read as follows:

Section 3. Covenants for Assessments. Each and every Lot in the Properties (other than those owned by Declarant) is hereby severally subject to and impressed with an annual maintenance charge or assessment in the amount of \$60.00 per Lot (hereinafter referred to as the "full maintenance charge") which shall run with the land, subject to increase and decrease as provided below.

Article VII, Section 5, of the Declaration is amended to read as follows:

Section 5. Rate of Assessment. The Board of Directors, in its discretion, may fix, by resolution specifying such amount, the annual assessment in any amount not in excess

of the maximum then permitted under the terms of Section 3. above, and such annual assessment for the Lots shall be assessed and paid at the following uniform rates:

(a) The rate for all Lots, developed and undeveloped, shall be deemed to be \$60.00 per Lot.

(b) The rate for all Lots owned* by Declarant shall be deemed to be none (\$0.00).

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 specific Lot have been paid.

IN TESTIMONY OF WHICH, at least a majority of lot owners have executed the same in their behalf and for the purposes and considerations therein expressed.

FILED AND RECORDED

11-8-95 8:41 A TD \$69.00 9567376

Dianne Wilson

Dianne Wilson - Co. Clerk
Fort Bend Co., TX

AFTER RECORDING
RETURN TO:

LODI E. ALDENSON
ATTORNEY AT LAW
P.O. BOX 820884
HOUSTON, TX 77282-0884

**SECOND AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
BOIS'D ARC ESTATES, AN UNRECORDED
SUBDIVISION IN FORT BEND COUNTY, TEXAS**

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

WHEREAS, on February 3, 1981, Ellis Cattle Company, a Texas corporation caused the Declaration of Covenants, Conditions and Restrictions for Bois'D Arc Estates, an unrecorded Subdivision in Fort Bend County, Texas dated January 8, 1981 (the "Declaration"), covering the property described therein (the "Subdivision") to be recorded in Volume 943, Page 860 of the Deed Records of Fort Bend County, Texas, establishing a uniform plan for the development, improvement, sale and preservation of the property within the Subdivision for the benefit of both the present and future owners of lots in the Subdivision; and

WHEREAS, Article VIII, Section 1 of the Declaration provides that the Declaration may be changed during the initial term or such successive ten (10) year extended term of the Declaration by an instrument signed by the then owners of not less than fifty-one percent (51%) of all lots in the Subdivision; and

WHEREAS, at least fifty-one percent (51%) of the current owners of the lots in the Subdivision desire to change the Declaration as hereinafter set out;

NOW, THEREFORE, in consideration of the recitals set forth above, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned, being the President of the Bois D' Arc Estates Homeowners Association, Inc., a Texas non-profit corporation (the "Association"), does hereby certify that the owners of lots in the Subdivision whose signatures are attached hereto constitute at least fifty-one percent (51%) of the owners of the lots in the Subdivision and such owners, by their signatures, adopt, establish and impose the following changes to the Declaration; which amendments and/or changes shall constitute covenants running with title to the land and shall inure to the benefit of all owners of lots within the Subdivision, their respective successors, assigns, heirs and representatives.

I. AMENDMENTS

1. **The first paragraph in Article IV, Section 1 is hereby amended to read as follows:**

Section 1. Land Use and Building Type. All Lots shall be known, described and used as Lots for residential purposes only (hereinafter sometimes referred to as "residential Lots"), and no structure shall be

erected, altered, placed, or permitted to remain on any residential Lot other than one single-family dwelling not to exceed two (2) stories in height, and a garage for two (2) or more, but not more than three (3) cars and quarters for bona fide domestic employees; provided that the Architectural Control Committee may, in its discretion, permit a garage for more than three (3) cars, such permission to be granted in writing as hereinafter provided. As used herein, the term "residential purposes" shall be construed to prohibit the use of the Lots for duplex houses, garage apartments, or apartment houses; and no Lot shall be used for business or professional purposes of any kind, nor for any commercial or manufacturing purpose. No portable or temporary or used building of any kind or character or Mobile Home shall ever be moved onto any Lot, it being the intention that only new construction meeting the requirements hereof shall be placed and erected thereon.

2. **Article IV, Section 1a, is hereby added to read as follows:**

Section 1a. Composite Building Site. Subject to the prior written approval of the Architectural Control Committee, any Owner of two or more adjoining Lots may consolidate such Lots into one building site with the privilege of placing or constructing improvements on such building site, in which case the resulting side property lines shall be the Lot lines on either end of the consolidated building site rather than the Lot lines as indicated on the recorded plats.

In the event an owner of two or more Lots consolidates two or more Lots into one composite building site, each Lot within such composite building site shall still be considered as an individual Lot for purposes of maintenance assessments as set forth in Article VII but the composite building site shall be considered as one Lot for all other purposes. If a Lot or portion thereof within the composite building site is later sold to a party which does not own the entire composite building site, and such Lot contains an outbuilding but does not contain a main Residential Structure, the new Owner of such Lot must cause a main Residential Structure to be build on such Lot on or before one (1) year after becoming the owner of such Lot.

3. **Article IV, Section 3, is hereby amended to read as follows:**

Section 3. Dwelling Size. For one (1) story dwellings, the ground floor of the main Residential Structure constructed on a Lot shall contain a minimum of 2,200 square feet of living area, exclusive of open or screened-in porches, port-o-cache and garages, and for multi-story dwellings, the main Residential Structure shall have at least 2,500 square feet of living area, exclusive of open or screened-in porches, port-o-cache and garages.

4. **Article IV, Section 3a, is hereby added to read as follows:**

Section 3a. Carport/Garages. No carport shall be constructed on any Lot. A port-o-cache may be approved by the Architectural Control Committee; however, this will be required in addition to a garage. All homes must be built with a garage, exclusive of any other outbuildings, at the time of construction of the home. All garages shall be: (a) fully operable; (b) capable of housing of at least two (2), but not more than three (3) automobiles (unless otherwise agreed to in writing by the Architectural Control Committee); and (c) enclosed by fully functional and operational garage doors which must be kept in the closed position when the garage is not being used.

5. **Article IV, Section 4(a), is hereby amended to read as follows:**

(a) Each Residential Structure shall have masonry construction and/or natural wood siding, hardi-plank or vinyl siding on the exterior wall area of a type and design approved by the Architectural Control Committee. Outbuildings shall have masonry construction and/or natural wood siding, hardi-plank, vinyl siding or metal of the highest quality (excluding galvanized corrugated sheet metal). However, in no event is metal an acceptable exterior building material for the main Residential Structure (other than as a roofing material).

6. **Article IV, Section 4(b), is amended to read as follows:**

(b) External roofing materials shall be composition or other material of long lasting quality approved by the Architectural Control Committee. Metal roofing of highest quality (excluding galvanized corrugated sheet metal) is also allowed. No wood shingles allowed.

7. **Article IV, Section 4(c), is hereby amended to read as follows:**

(c) All fencing shall be, at a minimum, constructed of new material of vinyl, wrought iron, pipe fencing, wood posts, wire, split rail wood or a combination thereof and be no less than four feet (4') in height and shall not exceed five feet (5') in height. No barbed wire allowed. This does not mean to exclude fencing higher than five feet (5') but in no event such fence shall be six feet (6') in height if used as a small enclosure on the property. All fencing (regardless of location) must be approved the Architectural Control Committee prior to installation.

8. **The following is hereby added at the end of Article IV, Section 7(b) to read as follows:**

The raising, breeding or keeping of hogs, guineas, peacocks or other large exotic birds or animals on any Lot in the Subdivision is strictly prohibited. However, consistent with the use of the Lot as a residence, dogs, cats and other domesticated animals and poultry may be kept on a Lot, provided they are not kept, bred or maintained for any commercial purposes. Further, no more than four (4) of each type of animals (i.e. 4 dogs, 4 cat) and no more than a total ten (10) animals per Residential Structure (not ten (10) animals per Lot) shall be kept on a Lot. In addition, and not included within the above ten (10) animals per Residential Structure limit, horses and livestock may be kept on a Lot, but shall be limited to two (2) animals per acre of grazing area. The Board, acting for the Association, shall have the right to prohibit any animals that, in the sole opinion of the Board, are not being kept in accordance with the foregoing restrictions.

9. **Article IV, Section 7(d), is hereby amended to read as follows:**

(d) No motor vehicles or non-motorized vehicles, boat, marine craft, recreational vehicle, camper rig off truck, hoover craft, aircraft, machinery, or equipment of any kind may be parked or stored on any part of any Lot, easement, or right-of-way, unless such vehicle or object is stored behind the main Residential Structure so as not to be visible from any street or is otherwise screened in a manner approved by the Architectural Control Committee. Notwithstanding the above, utility trailers, livestock trailers and tractors can be visible as long as they are parked behind the front building line. If at any time such trailers or tractors become an eyesore or nuisance as determined by the Board, the owner will be required to remove the trailers or tractors or relocate them so that they are not visible from any street. Passenger automobiles, passenger vans, motorcycles, or pick-up trucks that: (a) are in operating condition; (b) have a current license plate and inspection sticker; (c) are in daily use as motor vehicles on the streets and highways of the State of Texas; (d) which do not exceed six feet and six inches (6'6") in height, or eight feet (8') in width, or twenty-four feet (24') in length; and (e) have no commercial advertising located thereon, may be parked in the driveway on a Lot, however, no vehicle shall be parked so as to obstruct or block the streets or upon any portion of the grassed area or yard. No vehicle may be repaired on a Lot unless the vehicle being repaired is concealed from view inside a garage or other approved enclosure. This restriction shall not apply to any vehicle, machinery, or

equipment temporarily parked and in use for the construction, repair or maintenance of a house or houses in the immediate vicinity; provided however, Owners or occupants of the Lots may seek a temporary variance from this restriction for their guest, however, any such request for a variance must be receive the prior written approval of the Architectural Control Committee.

10. Article IV, Section 12, is hereby added to read as follows:

Section 12. Screening of Tanks and Pumps. All propane, butane, water and other exterior tanks, along with any related pumps and equipment must be screened by acceptable screening material or landscaped so as not to be visible from any street. Any screening material must receive the prior written approval of the Architectural Control Committee.

11. Article IV, Section 13, is hereby added to read as follows:

Section 13. Pools. All pools must be approved by the Architectural Control Committee prior to commencement of construction. In-ground and above ground pools must be completed within a reasonable time, but in any event, not later than six (6) months following the commencement of construction. For purposes of this section, the term "commencement of construction" shall be deemed to mean the date on which the excavation of dirt for in-ground pools commenced or the date the above ground pool was delivered. All pools will be fenced in a manner approved by the Architectural Control Committee.

12. Article IV, Section 14, is hereby added to read as follows:

Section 14. Ponds. The pond location, dimension, fencing material and other reasonable information as may be requested by the Architectural Control Committee must be reviewed and approved by the Architectural Control Committee prior to the commencement of construction of the pond. All ponds must be aerated and completely enclosed with a fence and comply with the Pond Specifications/Maintenance Policies as set forth by the Board of Directors of the Association. Ponds must be completed and fully operable not later than six (6) months after the commencement of construction. For purposes of this section, the term "commencement of construction" shall be deemed to mean the date on which the excavation of dirt for the pond commenced.

13. Article IV, Section 15, is hereby added to read as follows:

Section 15. Private Utility Lines. All electrical, telephone and other utility lines or facilities which are located on a Lot and which are not owned and maintained by a governmental entity or a utility company shall be installed in underground conduits or other underground facilities unless otherwise approved in writing by the Architectural Control Committee, and shall be maintained at all times by the Owner of the Lot upon which it is located.

II. APPLICABILITY

The undersigned further agree that the amendments set forth in this Second Amendment of Covenants, Conditions and Restrictions for Bois'D Arc Estates (this "Second Amendment") shall apply as follows:

A. To the extent the condition(s) or improvement(s) on the Lot were in compliance with the Declaration when constructed but are now in violation of the Declaration due to the amendments set forth under numbers 3, 4, 6, 7, 12 or 13 hereto, such condition(s) or improvement(s) will be "grand-fathered" from the amendment requirements as set forth in such numbered provision, but only to the extent that the condition(s) or improvement(s) were previously in compliance with the Declaration and due to this Second Amendment, are now in violation of the Declaration (as amended), and will be deemed to be in compliance with the Declaration (as amended) as to such amended provision. If the grand-fathered condition(s) or improvement(s) are destroyed or are substantially remodeled or renovated as determined by the Board of Directors of the Association, the terms of this Second Amendment will no longer be grand-fathered and will be fully applicable. Notwithstanding the foregoing, if a home is destroyed, it can be built as the same dwelling size as existed before the home was destroyed.

B. To the extent the condition(s) or improvement(s) on the Lot were in compliance with the Declaration when constructed but are now in violation of the Declaration due to the amendments set forth under number 10 hereto, such condition(s) or improvement(s) will be "grand-fathered" for a period of six (6) months from the date that this Second Amendment is recorded in the Real Property Records of Fort Bend County, Texas, within which time the owner of the lot containing the condition(s) or improvement(s) must take all actions necessary to bring the condition(s) or improvement(s) into compliance with number 10 of this Second Amendment. After such six (6) month period, the amendments set forth under numbers 10 hereto will be fully applicable to all Lots and no longer grand-fathered.

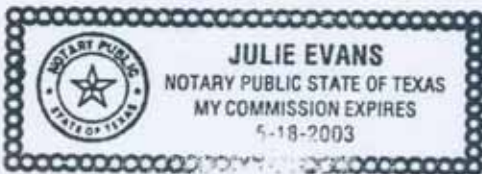
EXECUTED as of the dates set forth in the below acknowledgments to be effective upon filing in the Real Property Records of Fort Bend County, Texas.

BOIS D' ARC ESTATES HOMEOWNERS ASSOCIATION, INC., a Texas non-profit Corporation

By: *Dennis Clack*
Dennis Clack, President

STATE OF TEXAS :
COUNTY OF FORT BEND:

On this 7 day of September, 2002 personally appeared Dennis Clack, President of Bois D' Arc Homeowners Association, Inc., a Texas non-profit corporation.



Seal

Julie Evans
Notary Public in and for the state of Texas