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*Declarant
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DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR MIDDLEBROOK, SECTION TWO,
A SUBDIVISION IN HARRIS COUNTY, TEXAS

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STATE OF TEXAS)
COUNTY OF HARRIS)

125-01-1636

THIS DECLARATION, made on the date hereinafter set forth by FRIENDSWOOD DEVELOPMENT COMPANY, an Arizona corporation, hereinafter referred to as "Declarant";

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property heretofore platted and subdivided into that certain subdivision known as Middlebrook Section Two, according to the plat recorded in Volume 222, Page 18 of the Map Records of Harris County, Texas; said plat encompasses the following Lots which shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements, which are for the purposes of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof;

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(1) Lots:

- | | |
|-------------------------|------------------------|
| Block 24, 12 through 22 | Block 40, 1 through 26 |
| Block 25, 17 through 31 | Block 41, 1 through 24 |
| Block 26, 1 through 30 | Block 42, 1 through 24 |
| Block 27, 1 through 48 | Block 43, 1 through 22 |
| Block 28, 1 through 30 | Block 48, 1 through 24 |
| Block 29, 1 through 28 | Block 49, 1 through 21 |
| Block 30, 1 through 27 | Block 50, 1 through 19 |
| Block 38, 1 through 23 | Block 51, 1 through 23 |
| Block 39, 1 through 28 | Block 52, 1 through 17 |
| | Block 53, 1 through 28 |
| | Block 61, 1 through 13 |

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Middlebrook Community Association, Inc., a nonprofit corporation, incorporated under the laws of the State of Texas, its successors and assigns.

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

Section 3. "Properties" shall mean and refer to Middlebrook, Section Two, and any additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map upon which there has been or will be constructed a single-family residence, but shall not mean or include any Common Area.

Section 5. "Common Area" shall mean all real property owned by the Association for common use and enjoyment of the owners.

The Common Area owned by the Association at the time of the conveyance of the first Lot is described as follows:

Being a tract or parcel of land containing 11.2837 acres, located in the James Roth 1/4-League, Abstract 64, Harris County, Texas, and being more particularly described by metes and bounds as follows (all bearings referenced to the Texas Coordinate System, South Central Zone):

COMMENCING for reference at the southwest corner of the aforementioned James Roth 1/4-League being in the north line of the S. Murphy League, Abstract 53, Harris County, Texas;

THENCE with the common line of said Roth and Murphy Leagues N 86°23'41" E, 843.42 feet to a point;

THENCE leaving said line N 03°06'19" W, 1460.49 feet to the POINT OF BEGINNING, the beginning of a curve;

THENCE along the arc of a curve to the left having a chord which bears N 47°52'48" W, a central angle of 47°09'42"; a radius of 450.00 feet for a distance of 370.40 feet to a point for corner on said arc;

125-01-1638

THENCE N 34°08'11"E, 95.96 feet to a point for corner;

THENCE N 08°22'13" W, 336.76 feet to a point for corner;

THENCE N 39°55'45" W, 123.38 feet to a point for corner on the arc of a curve;

THENCE along the arc of a curve to the left having a chord which bears N 53°06'08" E, a central angle of 06°16'53", a radius of 1230.00 feet for a distance of 134.85 feet to a point of tangency;

THENCE N 43°47'22" E, 260.49 feet to a point for corner on the arc of a curve;

THENCE along the arc of a curve to the left having a chord which bears S 65°17'45" E, a central angle of 34°25'58", a radius of 920.00 feet for a distance of 552.89 feet to a point for corner on said arc;

THENCE S 03°42'55" W, 566.53 feet to a point for corner;

THENCE N 79°56'05" W, 164.07 feet to the beginning of a curve;

THENCE along the arc of a curve to the left having a chord which bears S 58°54'03" W, a central angle of 76°11'20", a radius of 85.00 feet for a distance of 113.03 feet to a point of compound curve;

THENCE along the arc of a curve to the left having a chord which bears S 08°20'52" W, a central angle of 24°54'55", a radius of 530.00 feet for a distance of 230.47 feet to a point for corner on said arc;

THENCE S 81°17'41" W, 0.27 feet to a point for corner;

THENCE N 08°42'07" W, 107.38 feet to a point for corner;

THENCE S 81°17'53" W, 190.00 feet to a point for corner;

THENCE S 08°42'07" E, 125.44 feet to the POINT OF BEGINNING and containing 11.2837 acres of land.

Section 6. "Declarant" shall mean and refer to Friendswood Development Company, an Arizona corporation, its successors and assigns.

Section 7. "Commercial Unit" shall contain ten thousand (10,000) square feet of commercial land and shall be the equivalent of one "Lot" or proportional fraction thereof for purposes of membership, voting rights and assessment in and by the Association.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right to an easement of enjoyment in and to the

Common Area which shall be appurtenant to and shall pass with the title of every Lot, subject to the following provisions:

- (a) the right of the Association to limit the number of guests of members;
- (b) the right of the Association to establish uniform rules and regulations and to charge reasonable admission and other fees pertaining to the use of any recreational facility situated upon the Common Area;
- (c) the right of the Association to suspend the voting rights and the right to use of the recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- (d) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

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

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every person or entity who is a record owner of any of the Properties which are subject to assessment by the Association shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of the land which is subject to assessment by the Association. Ownership of such land shall be the sole qualification of membership.

125-01-1640

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

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

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

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership or
- (b) on January 1, 1985.

Declarant hereby agrees to assign its right to approve or disapprove plans and specifications, location of structures, construction contracts and all other documents or approvals required to be submitted to it to the Middlebrook Community Association, Inc., when either of the conditions (a) or (b) above occur.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot and Commercial Unit owned within the Properties, hereby covenants, and Owner of any Lot or Commercial Unit by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

125-01-1641

- (a) annual assessments or charges, and
- (b) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The regular and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the members of the Association and, in particular, maintenance of the Common Area, parkways and entryways, negotiation of garbage and trash collection contracts, police service, fire protection and other similar services. It is specifically understood in regards to garbage and trash collection that the Association shall be responsible only to the extent of negotiating contracts for such service; cost of this service shall be borne directly by the Owners.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be One Hundred Eight and No/100 Dollars (\$108.00) per Lot or Commercial Unit.

(a) From and after January 1, of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 3 per cent above the maximum assessment for the previous year without a vote of the membership.

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

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

Section 4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement unto the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Rate of Assessment. All Lots and Commercial Units in Middlebrook, Section Two, shall commence to bear their applicable assessments simultaneously and Lots and Commercial Units owned by the Declarant are not exempt from assessment. Lots and Commercial Units which are occupied by residents and businesses respectively shall be subject to annual assessment determined by the Board of Directors. Unoccupied Lots and Commercial Units which are owned by Declarant shall be assessed at the rate of one-half (1/2) of the annual assessment during the development period of Middlebrook, Section Two, and any succeeding Middlebrook sections duly annexed by the Association; however, said assessment shall be made only in the event and then only to the extent that assessments from occupied Lots and Commercial Units are not sufficient to meet the operating budget of the Association. The rate of assessment for an individual Lot or

125-01-1643

Commercial Unit, within a calendar year, can change as the character of ownership and the status of occupancy change. The applicable assessment for such a Lot or Commercial Unit shall be prorated according to the rate required of each type of ownership.

Section 6. Date of Commencement of Annual Assessments.

The annual assessments provided for herein shall commence as to all Lots and Commercial Units on the first day of the month following the conveyance of the first Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot or Commercial Unit have been paid.

Section 7. 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 rate of 10 per cent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot or Commercial Unit.

Section 8. Subordination of the Lien to Mortgages.

The Lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot or Commercial Unit shall not affect the assessment lien. However, the sale or transfer of any Lot or Commercial Unit pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer, but only to that extent,

125-01-1644

and otherwise the lien shall survive such foreclosure or other proceedings. No sale or transfer shall relieve such Lot or Commercial Unit from liability of any assessments thereafter becoming due or from the lien thereof.

Section 9. Exempt Properties. All properties dedicated to and accepted by a local public authority, all Drill Site Reserves, and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Texas shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE V

RESTRICTIONS OF USE

Section 1. Single Family Residential Construction. Subject to Sections 7 and 9 below, no building shall be erected, altered or permitted to remain on any Lot other than one detached single-family residential dwelling not to exceed two (2) stories in height, and a private garage for not more than three (3) cars and bona fide servants' quarters, which structure shall not exceed the main dwelling in height or number of stories. No such residence shall be constructed on less than the equivalent of one full Lot as defined on the recorded subdivision plat or any recorded replat thereof approved by Declarant.

Section 2. Architectural Control. No building or improvements of any character shall be erected or placed, or the erection thereof begun, or changes made in the design thereof after original construction, on any Lot or Commercial Unit until the construction plans and specifications and a plan showing the location of the structure or improvements have been submitted to and approved by the Architectural Control Committee established by Declarant, its successors or assigns, as to compliance with these restrictions, as to quality of material, harmony of external design with existing and proposed structures and as to location with respect to topography and finish grade elevation. In the event the Committee fail to approve or disapprove within thirty

125-01-1645

(30) days after receipt of the required documents, approval will not be required and the related covenants set out herein shall be deemed to have been fully satisfied.

Section 3. Minimum Square Footage. The living area of the main residential structure shall not be less than 1,200 square feet for a one-story dwelling nor less than 1,600 square feet for a two-story structure. Two-story dwellings shall contain a minimum of 1,000 square feet on the ground floor. The exterior materials of the main residential structure, including garage if attached, shall be not less than fifty-one percent (51%) masonry. Detached garages may be of wood siding construction. No more than one dwelling shall be built on any one Lot or building site as defined in Section 5 below. The Architectural Control Committee, or its assignee, at its sole discretion, is hereby permitted to approve deviations in the building area, exterior materials, and location in instances where, in their judgment, such deviation will result in a more common beneficial use. Such approvals must be granted in writing and when given will become a part of these restrictions.

Section 4. Location of Improvements Upon the Lot. No building shall be located on any Lot nearer to the front line or nearer to the street sideline than the minimum building setback line shown on the recorded plat. No building shall be located on any Lot nearer than ten (10) feet to any side or rear street line. Subject to the provisions of Paragraphs 3 and 5, no building shall be located nearer than five (5) feet to an interior Lot line, except that a garage or other permitted accessory building located sixty (60) feet or more from the front Lot line may be a minimum distance of three (3) feet from an interior Lot line. For the purpose of this covenant, eaves, steps and unroofed terraces shall not be considered as part of a building, provided, however, that this shall not be construed to permit any portion of the construction on a Lot to encroach upon another Lot. Garages on corner Lots may have driveway

125-01-1646

access and open to the side streets. For purpose of these restrictions, carports shall be considered as garages and shall meet all the requirements for garages, including location, materials and construction. No lot shall have driveway access to El Dorado Boulevard.

Section 5. Composite Building Sites. Any Owner of one or more adjoining Lots (or portions thereof) may consolidate such Lots or portions into one single-family residence building site, with the privilege of placing or constructing improvements on such resulting site, in which case setback lines shall be measured from the resulting side property lines rather than from the Lot lines as indicated on the recorded plat. Any such composite building site must have a frontage at the building setback line of not less than the minimum frontage of Lots in the same block.

Section 6. Utility Easements. Easements for installation and maintenance of utilities are reserved as shown and provided for on the recorded plat, and no structure shall be erected on any of said easements. Underground electric, gas and telephone service shall be available to all Lots in the subdivision. For so long as such underground service is maintained, the electric service to each Lot shall be uniform and exclusively of the type known as single phase, 120/240 volt, 3 wire, 60 cycle, alternating current. Easements for the underground service may be crossed by driveways and walkways provided the Declarant or Builder makes prior arrangements with the utility companies furnishing electric, gas and telephone service and provides and installs any necessary conduit of approved type and size under such driveways or walkways prior to construction thereof. Such easements for the underground service shall be kept clear of all other improvements, including buildings, patios or other pavings, and neither grantor nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees or servants, to shrubbery, trees, flowers or other improvements (other than crossing driveways or walkways providing

125-01-1647

conduit has been installed as outlined above) of the Owner located on the land covered by said easements. In the event that audio and video communication services and facilities are made available to any of said Lots by means of an underground coaxial cable system, the company furnishing such services and facilities shall have a two (2) foot wide easement along and centered on the underground wire or cable when and as installed by said company from and at a right angle to the utility easement nearest to the point of connection on the permanent improvement or structure constructed, or to be constructed, upon said Lot, and in a direct line from said nearest utility easement to said point of connection.

Section 7. Prohibition of Offensive Activities. No activity, whether for profit or not, shall be carried on on any Lot which is not related to single-family residence purposes, except on those Lots which may be designated by Declarant to be used for Sales Offices for a maximum period of seven (7) years from the date hereof. No noxious or offensive activity of any sort shall be permitted, nor shall anything be done on any Lot which may be or become an annoyance or nuisance to the neighborhood.

Section 8. Storage of Automobiles, Boats, Trailers, Other Vehicles and Equipment. No boats, trailers, campers, buses, inoperative vehicles of any kind, camp rigs off truck, or boat rigging shall be parked or stored permanently or semi-permanently on any public street, right-of-way or on driveways. Permanent or semi-permanent storage of such vehicles or items must be screened from public view either within the garage or behind a solid fence.

Section 9. Temporary Structures. No structures of a temporary character, mobile home, trailer, basement, tent, shack, garage, barn, playhouse or other out-building shall be used on any Lot at any time as a residence. Portable buildings, or temporary structures used for accessory, playhouse or storage purposes shall be limited to eight

125-01-1648

feet in height and one hundred (100) square feet in area and must be approved in accordance with Section 2, Article V of these conditions, covenants and restrictions. Temporary structures may be used as building offices and for other related purposes during the construction period. Such structures shall be inconspicuous and sightly and shall be removed at completion of construction.

Section 10. Animal Husbandry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except dogs, cats or other common household pets (not to exceed two of each category) provided they are not kept, bred or maintained for commercial purposes. Notwithstanding the foregoing, no animals or fowl may be kept on the property which results in an annoyance or are obnoxious to residents in the vicinity.

Section 11. Walls, Fences and Hedges. No wall, fence, planter or hedge in excess of three (3) feet high shall be erected or maintained nearer to the front Lot line than the front building setback line, nor on corner Lots nearer to the side Lot line than five (5) feet parallel to the side street. No rear fence, wall or hedge and no side fence, wall or hedge shall be more than six (6) feet high and no fence shall be of wire or chain link construction, unless the Architectural Control Committee, or its assignee, at its sole discretion, permits deviation in height or construction materials which in their judgment will result in a more beneficial use. Any wall, fence or hedge erected as protective screening on a Lot by Declarant shall pass ownership with title to the property and it shall be the Owner's responsibility to thereafter maintain said protective screening.

No fence shall be constructed outside the side building setback line adjacent to the Green Belt drainage easement and in no case less than five (5) feet within the side lot line on the following Lots:

Lot 12, Block 24	Lots 12 and 13, Block 48
Lots 14 and 15, Block 30	Lots 14 and 15, Block 53
Lots 12 and 13, Block 41	

125-01-1649

Section 12. Visual Obstructions at the Intersections of Public Streets. No object or thing which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways within the triangular area formed by the junction of street curb lines and a line connecting them at points twenty-five (25) feet from the junction of the street curb lines (or extensions thereof) shall be placed, planted or permitted to remain on any corner Lots.

Section 13. Visual Screening on Lots. The drying of clothes in public view is prohibited, and the Owners or occupants of any Lots at the intersection of streets or adjacent to parks, playgrounds or other facilities where the rear yard or portion of the Lot is visible to the public shall construct and maintain a drying yard or other suitable enclosure to screen drying clothes from public view. Similarly, all yard equipment, woodpiles or storage piles shall be kept screened by a service yard or other similar facility as herein otherwise provided, so as to conceal them from view of neighboring Lots, streets or other property.

Section 14. Sidewalks. Before the dwelling unit is completed or occupied, the Lot owner shall construct a concrete sidewalk, four (4) feet in width parallel to the street curb two (2) feet from the Lot boundary and shall extend to the projection of the Lot boundary lines into the street right-of-way and/or street curbs at corner Lots. Owners of corner Lots shall install such a sidewalk parallel to the front Lot line and the side street Lot line. The Architectural Control Committee, or its assignee, at its sole discretion is hereby permitted to grant deviations as to geometric sidewalk placement or construction materials.

Section 15. Lot Maintenance. All Lots shall be kept at all times in a sanitary, healthful and attractive condition, and the Owner or occupant of all Lots shall keep all weeds and grass thereon cut and shall in no event use any Lot for storage of

125-01-1650

material and equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted, or permit the accumulation of garbage, trash or rubbish of any kind thereon, and shall not burn any garbage, trash or rubbish except by use of an incinerator approved by Declarant, and then only during such conditions as permitted by law. 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 ten (10) days' written notice thereof, Declarant, or its assignee, may without liability to the Owner or occupant, in trespass or otherwise, enter upon said Lot, 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 these restrictions, so as 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 property to pay such statement immediately upon receipt thereof. To secure the payment of such charges in the event of nonpayment by the Owner, a vendor's lien is herein and hereby retained against the above-described property in favor of Declarant but inferior to purchase money lien or mortgage. Such vendor's lien shall be applicable and effective whether mentioned specifically in each deed or conveyance by Declarant or not.

Section 16. Signs, Advertisements, Billboards. No sign, advertisement, billboard or advertising structure of any kind shall be displayed to the public view on any portion of the properties or any Lot except one sign for each building site, of not more than twenty-four (24) inches by thirty-four (34) inches, advertising the property for sale or rent, or except signs used by Declarant to advertise the property during the construction and sales period. Declarant shall have the right to

125-01-1651

remove any such sign, advertisement or billboard or structure which is placed on said Lots, and in so doing shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal.

Section 17. Removal of Dirt and Trees. The digging of dirt or the removal of any dirt from any Lot is expressly prohibited except as necessary in conjunction with the landscaping of or construction on such Lot. No trees shall be cut except to provide room for construction or improvements or to remove dead or unsightly trees.

Section 18. Antennae. No electronic antenna or device of any type other than an antenna for receiving normal television signals shall be erected, constructed, placed or permitted to remain on any Lots, houses or buildings constructed in this subdivision. Television antennae may be attached to the house; however, the antenna's location shall be restricted to the rear of the house or to the rear of the roof ridge line, gable or center line of the principal dwelling so as to be hidden from sight when viewed from the fronting street.

Section 19. Roofing Material. The roof of any building shall be constructed or covered with (1) wood shingles, (2) asphalt or composition type shingles having a minimum weight classification of 275 pounds per square, comparable in color to weather wood shingles and comparable in surface textural appearance to wood shingles; the decision of such comparison rests with the Architectural Control Committee, or (3) crushed marble, slag or pea gravel set in a built up type roof on roof surfaces not visible from the fronting street. Any other type roofing material shall be permitted only at the sole discretion of the Architectural Control Committee upon written request.

Section 20. Underground Electrical Service. An underground electric distribution system will be installed in that part of Middlebrook Subdivision, Section Two, designated Underground Residential Subdivision, which underground service area shall

125-01-1652

embrace all Lots in Middlebrook Subdivision, Section Two. 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 Electrical 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.

The electric company has installed the underground electric distribution system in the Underground Residential Subdivision at no cost to Declarant (except for certain conduits, where applicable) upon Declarant's representation that the Underground Residential Subdivision is being developed for single-family dwellings and/or townhouses of the usual and customary type, constructed upon the premises, designed to be permanently located upon the Lot where originally constructed and built for sale to bona fide purchasers (such category of dwellings and/or townhouses expressly excludes, without limitation, mobile homes and duplexes). Therefore, should the plans of Lot Owners in the Underground Residential Subdivision be

125-01-1653

changed so that dwellings of a different type will be permitted in such Subdivision, the company shall not be obligated to provide electric service to a Lot where a dwelling of a different type is located unless (a) Declarant has paid to the company an amount representing the excess in cost, for the entire Underground Residential Subdivision, of the underground distribution system over the cost of equivalent overhead facilities to serve such Subdivision, or (b) the Owner of such Lot, or the applicant for service, shall pay to the company the sum of (i) \$1.00 per front Lot foot, it having been agreed that such amount reasonably represents the excess in cost of the underground distribution system to serve such lot over the cost of equivalent overhead facilities to serve such Lot, plus (ii) the cost of rearranging and adding any electric facilities serving such Lot, which rearrangement and/or addition is determined by the company to be necessary.

ARTICLE VI

GENERAL PROVISIONS

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

Section 2. Servability. Invalidation of any one of these covenants or restrictions shall in nowise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which

125-01-1654

time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety per cent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five per cent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Books and Records. The books, records and papers of the Association shall, during reasonable business hours, be subject to inspection by any member. The Articles of Incorporation, By-Laws of the Association, and Restrictive Covenants shall be available for inspection by any member at the principal office of the Association where copies may be purchased at a reasonable cost.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 6. Development of Minerals. There is hereby excepted from the land encompassed by the boundaries of this subdivision, Middlebrook, Section Two, and Declarant will hereafter except from all its sales and conveyances of said land, or any part thereof, including the locations for buildings and the Common Area, all oil, gas and other minerals in, on and under said land, but Declarant hereby waives, and will waive or secure waiver of, in each such conveyance, the right to use the surface of the land for development of oil, gas and other minerals, provided that Declarant hereby retains and reserves and in each such conveyance will retain and reserve the right to pool the land with other lands for development of oil, gas and other minerals and the right to drill under and through the subsurface of the land below the depth of one hundred feet (100'). Such exceptions and such retained rights and reservations shall

125-01-1655

inure to the benefit of Declarant, its predecessors in title and its successors and assigns in accordance with their interest of record.

Section 7. Annexation. Additional residential property and common area may be annexed to the properties with the consent of two-thirds (2/3) of each class of membership. However, upon the submission and approval by FHA and VA of a general plan of the entire development, and upon the subsequent approval of each stage of development, such additional stages may be annexed by the Board of Directors without obtaining homeowner's consent.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 5th day of August, A.D., 1975.

ATTEST:

FRIENDSWOOD DEVELOPMENT COMPANY



B. B. Biene
Secretary

By Charles L. Ponce
Vice President

Handwritten initials: JR, SR, MS

THE STATE OF TEXAS }
COUNTY OF HARRIS }

Before me, the undersigned authority, on this day personally appeared Charles L. Ponce, known to me to be the person whose name is subscribed to the foregoing instrument as Vice President of Friendswood Development Company and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and as the act and deed of said Friendswood Development Company.

Given under my hand and seal of office this the 5th day of August, 1975.



Helen R. Kirby
Notary Public in and for
Harris County, Texas

HELEN R. KIRBY
NOTARY PUBLIC IN AND FOR HARRIS COUNTY, TEXAS
MY COMMISSION EXPIRES JUNE 1, 1977