

REVOCATION AND SUBSTITUTION  
OF RESTRICTIVE COVENANTS  
"TIMBERWILDE, SECTION I"

00982

THE STATE OF TEXAS   §  
                          §     KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF WALKER   §

THAT WHEREAS, on or about April 22, 1980, RON-DELL, INC. a Texas corporation, then owner of certain real property situated in Walker County, Texas, imposed certain covenants, conditions and restrictions upon such real property and caused to be prepared, executed and acknowledged that certain instrument titled "Restrictive Covenants" and recorded in Volume 357, page 505, of the deed records of Walker County, Texas (hereinafter referred to as the "Original Restrictions"), to which reference is made a part hereof by the specific reference thereto to the same extent as if copied verbatim herein, and

WHEREAS, paragraph 4 of the Original Restrictions provides, among other things, that said covenants, conditions and restrictions may be amended by an instrument signed by not less than seventy-five (75%) percent of the owners of the lots in the subdivision as provided in the Original Restrictions; and,

WHEREAS, the undersigned is the owner of not less than seventy-five (75%) percent of the lots, said ownership being One Hundred (100%) percent of the lots in Timberwilde subdivision, and the undersigned desires to REVOKE the Original Restrictions and SUBSTITUTE these in their place and stead as more fully hereinafter provided;

NOW, THEREFORE, in consideration of the premises, the undersigned hereby declares that the Original Restrictions are hereby REVOKED in accordance with the further terms and provisions of this instrument and the following reservations, easements, covenants, conditions and restrictions are SUBSTITUTED therefor in their place and stead.

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THAT RON-DELL, INC., a Texas corporation (hereinafter called the "Declarant"), is the owner in fee simple of that certain tract of land which has heretofore been platted into that certain subdivision known as "TIMBERWILDE, Section I," according to the plat of said subdivision duly recorded in Volume I, Page 68, of the Plat Records of Walker County, Texas, and said plat and record thereof are incorporated herein by reference and made a part hereof for all intents and purposes as if the same were copied verbatim herein.

For the purpose of enhancing and protecting the value, and desirability of the lots or tracts constituting such subdivision, Declarant hereby declares that all the real property situated within the subdivision and each part thereof shall be held, sold and conveyed only subject to the following reservations, easements, covenants, conditions and restrictions, which shall constitute covenants running with the land and shall be binding on all parties having any right, title or interest in any lot or tract constituting a part of said subdivision or any portion thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof:

1. Each contract, deed, deed of trust, or other instrument which may be hereafter executed with respect to any property situated within the subdivision shall be deemed and held to have been executed, delivered and accepted subject to all the terms and provisions contained herein, regardless of whether or not any of such terms and provisions are set forth therein or referred to therein.

2. The streets and roads shown on said recorded plat are dedicated to the use of the public. The utility easements shown thereon are dedicated subject to the reservations hereinafter set forth.

3. (a) The utility easements shown on the recorded plat are dedicated with the reservation that such utility easements are for the use and benefit of any public utility authorized to operate and/or operating in Walker County, Texas, as well as for the benefit of the Declarant and the property owners in the subdivision to allow for the construction, repair, maintenance and operation of a system or systems of electric light and power lines, telephone lines, gas lines, water lines, sanitary sewers, storm sewers and any other utility or service which the Declarant may find necessary or proper.

(b) The title conveyed to any property in the subdivision shall not be held or construed to include the title to the water, gas, electricity, telephone, storm sewer or sanitary lines, poles, pipes, conduits or other appurtenances or facilities constructed by the Declarant or public utility easements; and the right (but not the obligation) to construct, maintain, repair and operate such systems, utilities, appurtenances and facilities is reserved to the Declarant.

(c) The right to sell or lease such lines, utilities, appurtenances or other facilities to any municipality, governmental agency, public service corporation or other party is hereby expressly reserved to the Declarant.

(d) Neither the Declarant, nor his heirs, successors or assigns, using said utility easements shall be liable for any damage done by any of such parties or any of their agents or employees to shrubbery, trees, flowers or other property of the land owner situated on the land covered by said utility easements.

4. The provisions hereof, including the reservations, easements, covenants, conditions and restrictions herein set forth, shall run with the land and shall be binding upon the Declarant, and all persons or parties claiming under him for a period of twenty (20) years from the date hereof, at which time all such provisions shall be automatically extended for successive periods of ten (10) years each, unless prior to the expiration of any such period, twenty (20) years or ten (10) years, the then owners of seventy-five (75%) percent of the lots in the subdivision shall have executed and recorded an instrument changing the provisions hereof, in whole or in part, the provisions of said instrument to become operative at the expiration of the particular period in which such instrument is executed and recorded, whether such particular period be the aforesaid twenty (20) year period or any successive ten (10) year period thereafter.

5. In the event of any violation or attempted violation of any of the provisions hereof, including any of the reservations, easements, covenants, conditions, or restrictions herein contained, enforcement shall be authorized by any proceeding at law or in equity against any person or persons violating or attempting to violate any of such provisions, including, but not limited to, a proceeding to restrain or prevent such violation or attempted violation by injunction, whether prohibitive in nature or mandatory in commanding compliance with such provisions; and it shall not be a prerequisite to the granting of any such injunction to show inadequacy of legal remedy or irreparable harm. Likewise, any person entitled to enforce the provisions hereby may recover such damages as such person has sustained by reason of the violation of such provision. Any person found to have violated or to have attempted to violate any of the provisions hereof in any proceeding at law or in equity hereby agrees to pay to the opposite party reasonable attorney's fees for the services of the opposite party's attorney in the action or proceeding, such fees to be fixed by the Court. It shall be lawful for the Declarant, the Architectural Control Committee or any non-profit corporation

designated hereunder, or for any person or persons owning property in the subdivision to bring any proceeding at law or in equity against the person or persons violating or attempting to violate any of the provisions of this instrument. Failure by any person entitled to enforce the provisions hereof shall in no event be deemed a waiver of the right to do so thereafter.

6. Should any portion of this instrument for any reason be declared invalid, such decision shall not affect the validity of the remaining portion, which remaining portion shall remain in full force and effect as if this instrument had been executed with the invalid portion thereof eliminated.

7. No violation of the provisions herein contained, or any portion thereof, shall affect the liens created by any mortgage, deed of trust or other instrument presently of record or hereinafter placed of record or otherwise affect the rights of any person holding under the same; and the liens created by any of such instruments may, nevertheless, be enforced in accordance with its terms; provided, however, that the provisions hereof shall be binding on any owner whose title is acquired by judicial or other foreclosure, by trustee's sale or by other means.

8. Each lot in the subdivision shall be used as a residence for a single family and for no other purpose.

9. No building shall be erected, altered or permitted to remain on any lot within the subdivision other than one single family residential dwelling not to exceed two (2) stories in height and a private garage (or other covered car parking facility) for not more than three (3) automobiles; and one storage building; provided, however, that such private garage (or other covered car parking facility) and/or storage building shall not exceed the height of such residential dwelling.

(a) Declarant shall designate and appoint an Architectural Control Committee consisting of not less than three (3) qualified persons, which committee shall serve at the pleasure of the Declarant.

(b) The Architectural Control Committee (hereinafter designated "the Committee"), shall have jurisdiction over the matters hereinafter specifically provided for in these restrictions.

10. The living area of each single family residential dwelling (exclusive of open or screened porches, terraces, driveways and garages (or other covered parking facility) and storage buildings) shall not be less than fifteen hundred (1,500) square feet, if the same be a one-story dwelling, and not less than eighteen hundred (1,800) square feet, if the same be a two-story dwelling. The exterior materials of all structures permitted to be constructed or erected upon a lot within the subdivision shall be as follows:

(a) The residential structure and any attached garage (or other covered attached parking facility) shall be of at least fifty-one (51%) percent brick, stone or its equivalent;

(b) A detached garage (or other covered detached parking facility) may be of wood or brick, stone or its equivalent, or a combination of the same; and,

(c) The storage building may be of wood or brick, stone or equivalent, or a combination of the same. The ratio set forth above may be varied for a particular dwelling if written approval thereof be first granted in writing by the Committee.

11. No building shall be located on any lot nearer to the front street line or nearer to the side street line than the minimum building set-back lines shown on the aforesaid plat (designated thereon as "B.L.") or nearer than twenty (20) feet to an interior side lot line or nearer than fifteen (15) feet to a rear lot line.

12. No building or other improvements of any character shall be created or placed, or the erection or placing thereof commenced, or changes made in the design thereof or any addition made thereto, or exterior alteration made therein after original construction, on any property in the subdivision until the construction plans and specifications and a plat showing the location of each building or other improvements have been first approved in writing by the Committee. If said construction plans and specifications and plat be not approved or disapproved by the Committee within thirty (30) days after the same have been submitted to it, the same shall be deemed to have been approved by the Committee; provided, however, such building or other improvements must be constructed in strict compliance with all other terms and provisions contained in this instrument.

13. No lot in the subdivision shall be resubdivided without the Committee's approval, provided that in no case shall any subdivided Lot or Lots be less than one (1) acre.

14. No garage shall be placed on any lot within the subdivision which faces or opens toward the street.

15. All buildings constructed upon any lot within the subdivision must be "dried-in" within six (6) months from the date construction commences and completed within one (1) year from the date construction commences. As used herein, the term "dried-in" means that the outside exterior of the building must have the appearance of a completed building. No building material of any kind or character shall be placed or stored upon any parcel greater than 30 days before construction of a building or improvements are commenced, and then such material shall be placed within the building lines as established above. At the completion of such building or improvements, such material must be immediately removed from the premises. No stumps, trees, underbrush or any refuse of any kind or scrap material from improvements being erected on any other parcel shall be placed or stored on streets or easements. Exposed openings resulting from any excavation made on any parcel shall be backfilled and the disturbed ground shall be leveled. No change of elevation on any parcel greater than 5 feet shall be made without the approval of the Committee.

16. No structure of a temporary character or any trailer, mobile home, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot within the subdivision at any time as a residence; provided, however,

any permitted structure of a permanent nature may contain living quarters for bonafide servants if the same does not violate any other terms and provisions contained in this instrument. No homes shall be moved in.

17. No rubbish, trash, garbage, manure, debris or other waste material shall be kept or permitted on any lot within the subdivision except in sanitary containers located in appropriate areas concealed from public view. No burning of trash or other materials shall be permitted. Owners shall keep the drainage easements free of obstructions. No act may be performed which is likely to pollute the air or water in any part of the subdivision. Nor may any property owner violate any ordinance designed to eliminate pollution at that time in force, whether it be State, County or City.

18. No business of any kind shall be conducted on or from any lot within the subdivision, with the exception of the business of the Declarant in developing and selling lots situated within the subdivision to the general public.

19. No noxious or offensive activity shall be conducted or maintained on any lot within the subdivision. No animals, livestock or any poultry of any kind shall be raised, bred or kept on any lot within the subdivision; however, dogs, cats and any other household pets may be kept on lots within the subdivision so long as they are not kept, bred or maintained for commercial purposes. Horses may be kept for non-commercial purposes on the basis of one horse for the first 3 acre tract and 1 horse for each contiguous acre thereafter. However, no stud horse over the age of one year may be kept in the subdivision.

20. No sign of any kind shall be displayed to public view on any lot within the subdivision, except customary name and address signs and lawn signs of not more than three (3) square feet in size advertising a property for sale or rent.

21. Nothing shall be done or kept on any lot within the subdivision which would increase the rate of insurance relating thereto. No owner shall permit anything to be done or kept on his lot which would result in the cancellation of insurance on any residence, or which would be in violation of any law.

22. All lots in the subdivision shall be kept at all times in a sanitary, healthful and attractive condition, and the owner or occupant of all lots shall in no event use any lot within the subdivision for storage of materials and/or equipment except for normal residential requirements.

23. No boat, motor home, trailer, camper, truck or other machinery shall be stored or maintained on any lot within the subdivision unless the same be kept at least seventy-five (75) feet from any front road or street lot line, and kept from view of the street. No abandoned automobiles or automobile that is inoperable or without a current year's license shall be maintained or permitted to remain on any lot or street within the subdivision. All such property above described shall be removed at the owner's expense.

24. Nothing contained in this instrument shall prevent Declarant from maintaining a sales office or offices upon any lot or lots within the subdivision.

25. No wall, fence, planter or hedge in excess of two (2) feet high shall be erected or maintained nearer to the front line than the front building set-back line, nor on corner lots nearer to the side lot line than the building set-back line parallel to the side street. No rear fence, wall or hedge and no side fence, wall or hedge located between the side building line and the interior lot line (or located on the interior line) shall be more than six (6) feet high. Provided, the Committee may grant permission to build decorative fences.

26. The drying of clothes in public view is prohibited.

27. No property located within the subdivision shall be used or permitted for hunting or for the discharging of any pistol, rifle, shotgun or any other firearm, or any bow and arrow, or any device capable of or intended for killing or injuring.

28. Driveways shall be entirely paved of concrete, asphalt, or crushed rock (or a combination of the foregoing materials) and plans and specifications for driveways shall be included with the construction plans and specifications to be submitted to the Committee, as provided for herein. Drainage structures where required under private driveways shall have a net drainage opening area of sufficient size to permit the free flow of water without back water, and shall be a minimum of 18-inch diameter pipe culvert, or such larger diameter as may be required in the judgment of the Committee or as may be prescribed by law.

29. No oil drilling, oil development operations, oil refining, or mining operations of any kind shall be permitted upon any lot within the subdivision, nor shall any oil or gas wells, tanks, tunnels, mineral excavations or shafts be permitted upon any lot within the subdivision. No derrick or other structure designed for use in boring for oil, or natural gas, shall be erected, maintained or permitted on any lot.

30. Each owner of a lot within the subdivision shall, at his sole cost and expense, repair all buildings or other improvements of any character on his lot, keeping the same in a condition comparable to the condition of such building or other improvements at the time of their initial construction, excepting only normal wear and tear.

31. If all or any portion of a building or other improvements be damaged or destroyed by fire or other casualty, it shall be the duty of the owner thereof, with all due diligence, to rebuild, repair or reconstruct the same in a manner which will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction shall be undertaken within two (2) months after the damage occurs and shall be completed within twelve (12) months after the damage occurs, unless prevented by causes beyond the control of the owner or owners. Notwithstanding anything contained in this Paragraph 31 to the contrary, the owner of the lot upon which a building or other improvement has been so damaged or destroyed shall not be required to so rebuild, repair or reconstruct provided the building or other improvement which has been so damaged or destroyed is removed from the lot and provided, further, the lot remains in a sanitary, healthful and attractive condition.

32. No septic tank, grease trap, field lines or any single home waste water disposal system shall be installed on any lot within the subdivision unless the builder or the owner of the improvements on said lot shall first provide the Committee written evidence that the plans, drawings and specifications pertaining to the installation of such septic tank, field lines and grease traps, and/or drawings and specifications pertaining to the installation of such a single home waste water treatment system, meet all requirements of appropriate governmental authorities. No outside toilets shall be permitted upon any lot within the subdivision nor shall any type of device for disposal of sewage be permitted which will result in raw, untreated or unsanitary sewage being emitted upon any portion of the property situated within the subdivision or into any stream, creek or other body of water. Drainage of septic tank to roads, streets, or any drainage area either directly or indirectly is strictly prohibited. Representatives of Declarant, any non-profit corporation created hereunder, or the Committee may from time to time at any reasonable hour, enter and inspect any part of the subdivision to ascertain compliance with this provision.

33. Each lot in the subdivision shall be and is hereby made subject to an annual maintenance charge, except as otherwise hereinafter provided. The maintenance charge referred to shall be used to create a fund to be known as the "Maintenance Fund". Each such maintenance charge shall (except as otherwise hereinafter provided) be paid by the owner of each lot annually, in advance, with the first payment being due and payable on the date each owner acquires title to a lot (and being only for the remaining portion of the calendar year in which he acquires such title); thereafter, the same shall be due and payable on or before January 1st each year beginning the January 1st next after each owner acquired title to his lot. The maximum amount of each maintenance charge shall be \$100.00 and may not be increased without a vote of the majority of the owners of lots herein made subject to the maintenance charge. The maintenance charge shall not apply to lots owned by the Declarant, or owned by any person, firm, association or corporation engaged primarily in the building and construction business which has acquired title to any such lots for the sole purpose of constructing improvements thereon and thereafter selling such lots; however, upon such sale of such lots by such person, firm, association or corporation to a purchaser whose primary purpose is to occupy and/or rent and/or lease such lot (and improvements thereon, if any) to some other occupant, then the maintenance charge shall thereon be applicable to such lots; and the Declarant hereby covenants for each lot within the subdivision, and each owner of a lot is hereby deemed to covenant by the acceptance of his deed to such lot within the subdivision under the circumstances herein stated.

34. The Maintenance Fund charges collected shall be paid into the Maintenance Fund to be held and used exclusively for the benefit, directly or indirectly, of the subdivision; and such Maintenance Fund may be expended by the Declarant for any purpose or purposes which, in the sole judgment of the Declarant, will tend to maintain the property values in the subdivision, including, but not by way of limitation; providing for the maintenance and repair of the streets and



roads shown on the aforesaid recorded plat (notwithstanding the fact said streets and roads are dedicated to the use of the public); enforcement of the provisions of this instrument; and, for the maintenance, operation, repair, benefit and welfare of any recreational facilities which might be hereafter established in Timberwilde. The use of the maintenance fund for any of these purposes is permissive and not mandatory, and the decision of the Declarant with respect thereto shall be final, so long as made in good faith. In order to secure the payment of the maintenance charge hereby levied, a Vendor's Lien shall be and is hereby reserved in the deed from the Declarant to the purchaser of each lot or portion thereof, which lien shall be enforceable through appropriate judicial proceedings by the Declarant. Said lien shall be deemed subordinate to the lien or liens of any bank, insurance company, savings and loan institution or any other person which hereafter lends money for the purchase of any property within the subdivision, and/or for construction (including improvement) and/or permanent financing of improvements on any such property. Such maintenance charges which are not paid promptly when due, shall bear interest from and after the due date at the rate of ten (10%) percent per annum, and the Declarant shall be entitled to collect reasonable collection charges, including attorneys' fees, with respect to any maintenance charge which is not paid promptly when due. Such interest, collection charges and attorneys' fees shall be secured in like manner as the maintenance charge.

35. The Declarant shall have the right at any time to discontinue or abandon the hereinbefore provided maintenance charge, without incurring liability to any person whomsoever, by filing a written statement in the office of the County Clerk of Walker County, Texas, declaring any such discontinuance or abandonment.

36. The provisions of this instrument relating to the maintenance charge and to the Maintenance Fund shall continue in effect unless changed in the manner and at the time or times provided for herein, specifically Paragraph 4 hereof, for changing other provisions set forth in this instrument.

37. The Declarant may at any time provide or designate a person firm, or corporation to provide garbage pick-up and disposition from the lots within the subdivision, which garbage service all lot owners shall be required to utilize and pay the monthly or annual charge for such service. The Declarant may also elect at any time to drill a water well or wells adequate to provide the water needs of the subdivision and build the related facilities and distribution system to provide water to the lots within the subdivision and all such lots for which such water service is available shall be required to utilize such service and pay the monthly or annual charge therefor.

38. The Declarant shall, after the sale of fifteen (15) lots of the subdivision, either cause a non-profit corporation to be organized under the laws of the State of Texas for the purpose of exercising all or any of the duties and prerogatives of the Declarant hereunder (including the matters relating to the maintenance charge and fund), or delegate to a preexisting non-profit corporation organized under the laws of the State of Texas, subject to said corporation's acceptance, approval and consent, the duties and prerogatives of Declarant hereunder (including matters relating to the maintenance charge and fund). Any such delegation of authority

and duties shall serve to automatically release Declarant from further liability with respect thereto and vest such duties and prerogatives in such non-profit corporation. The delegation shall be evidenced by an instrument amending this instrument placed of record in the Deed Records of Walker County, Texas, and joined in by the Declarant and the aforesaid non-profit corporation but not, however, requiring the joinder of any other person in order to be fully binding, whether such other person be an owner of property in the subdivision, a lien holder, mortgagee, Deed of Trust beneficiary, or any other person.

39. As used herein, the term "Declarant" means Ron-Dell, Inc., its successors and assigns, provided such successors or assigns acquires more than one (1) undeveloped lot from Declarant for the purpose of development and/or resale to third parties.

40. As used herein, the word, "lot", shall mean any plot of land as shown on the recorded subdivision map referred to above with the exception of the streets and roads and portions of said subdivision marked "Reserved".

41. All of the provisions contained in this instrument shall be covenants running with the land thereby affected. The provisions of this instrument shall be binding upon and inure to the benefit of the owners of the land affected and the Declarant and their respective heirs, executors, administrators, successors and assigns.

42. The pronouns used in this instrument are in the masculine gender but shall be construed as feminine or neuter as the occasion may require.

EXECUTED this 2nd day of March, 1981.

RON-DELL, INC.

ATTEST:

Jane Hogue  
Secretary

BY: [Signature]  
President

THE STATE OF TEXAS        §  
COUNTY OF WALKER        §

BEFORE ME, the undersigned authority, on this day personally appeared W. D. York, President for RON-DELL, INC., known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 2nd day of March, 1981.

Carol Manning  
NOTARY PUBLIC in and for  
Walker County, Texas.

THE STATE OF TEXAS  
COUNTY OF WALKER

I, JAMES D. PATTON, Clerk of the County Court in and for Walker County, Texas do here certify that this instrument was FILED FOR RECORD and RECORDED in the volume and page of a named record and at the time and date as stamped hereon by me.



FILED FOR RECORD  
At 11:05 o'clock AM

MAR 02 1981

J.D. PATTON, WALKER COUNTY, TEXAS  
de. u. y

*James D. Patton* **RECORDED**  
JAMES D. PATTON, CLERK  
WALKER COUNTY, TEXAS

MAR 18 1981

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