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DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS FOR WATERBROOK WEST, A Subdivision in Fort Bend County, Texas

THE STATE OF TEXAS § KNOW ALL MEN BY THESE PRESENTS, THAT: COUNTY OF FORT BEND §

Waterbrook, Inc., a Texas corporation, acting herein by and through its undersigned officers, desiring as the owner of Waterbrook West, a subdivision in Fort Bend County, Texas, as shown on plat recorded in Volume 23, Page 29 of the Map Records of Fort Bend County, Texas, (herein called "said plat") and containing 168.9749 acres of land, more or less, in the Moses Shipman League, Abstract 86, Fort Bend County, Texas, said 168.9749 acres more particularly described in Exhibit "A" attached hereto and made a part hereof for all relevant purposes, does hereby impose upon all the property included in Waterbrook West, the following conditions, covenants, easements and restrictions (hereinafter sometimes called "Restrictive Covenants"), which are in furtherance of a plan for Waterbrook West, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of Waterbrook West. The Restrictive Covenants shall be covenants running with the land and shall be binding upon any purchaser, grantee, owner or lessee of any land or improvement in Waterbrook West, and upon the respective heirs, executors, administrators, devisees, successors and assigns of such purchaser, grantee, owner or lessee.

I.

DEFINITIONS

1. As used herein the following terms shall have the meanings indicated.

(a) "Declarant" shall mean and refer to Waterbrook, Inc., a Texas corporation, and where appropriate, include the successors and assigns of Waterbrook, Inc.

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(b) "The property" shall mean and refer to Waterbrook West subject to the reservations set forth herein or on said plat, and any additional properties made subject to the terms hereof pursuant to provisions set forth herein.

(c) "Lot" shall mean and refer to a single piece or parcel of land shown as a numbered lot on said plat. The term shall not include any area or tract designated as a recreational area, as a private way or as an undeveloped reserve.

(d) "Reserve A" shall mean and refer to the undeveloped tract shown on said plat.

(e) "Owner" shall mean and refer to the record owner of any Lot or of Reserve A, whether one or more, and shall not include those having an interest merely as security for the performance of an obligation and those having only an interest in the mineral estate.

(f) "Association" shall mean and refer to the non-profit corporation which Declarant shall cause to be incorporated as herein provided, and the successors and assigns of said corporation.

(g) "Architectural Control Committee" shall mean and refer to the persons designated by Declarant, its successors and assigns.

II.

RESTRICTIONS

1. LAND USE. All Lots shall be single family residential lots with not more than one residence of any type constructed on any one Lot. No temporary buildings, shacks, tents, mobile homes, modular homes, relocatable or relocated homes shall be placed or maintained on any Lot. No Owner shall erect or permit to be erected on any part of any Lot in Waterbrook West any school, church, day-care center, factory of any kind or nature whatsoever, gas station, hotel, motel, boarding house, restaurant,

bar or entertainment center, hospital, cemetery, shop, store, clubhouse, trade, business, or use the land in any objectionable manner whatever. No Lot may be used for a dumping ground for trash or rubbish. No noxious or offensive activity or any activity which may become an annoyance to the neighborhood shall be permitted on any Lot nor in any part of any common areas.

2. BUILDING TYPE. No building shall be located nearer to the street than 30 feet on a fronting street, 30 feet to any side street or 10 feet to any side line.

All residences shall have floor space of not less than 2,000 square feet with interior ceiling heights of not less than 8 feet. This floor space shall be exclusive of one-story open porches, garages, carports, and finished basements, and may be modified as follows: 2-story residences must have not less than 1,600 square feet of floor space on the first floor; split-level residences must have not less than 1,600 square feet on the two lower levels; and story-and-a-half residences must have not less than 1,600 square feet on the first level. No residence or appurtenant structure shall exceed 45 feet in height.

Any exposed concrete block or other fabricated masonry block unit must be veneered with brick, natural stone, stucco, or other finishing material. No structure made of corrugated iron or scrap metal shall be allowed.

3. GARAGES. All residences must have a minimum of a 2-car carport or garage and no vehicles will be allowed to be parked so as to be visible from the street for periods of more than twenty-four (24) hours. The term vehicles, as used herein, shall include, without limitation, motor homes, recreational vehicles, boats, trailers and trucks, in addition to automobiles.

All garages shall have openings for such structures to the side or to the front, so that said openings shall not be visible from the street.

4. MISCELLANEOUS BUILDING REQUIREMENTS. Every residence, as part of the installed equipment, shall contain a disposal unit

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which will be maintained in functioning condition. All residential structures shall be equipped with a fresh water well and septic tank connections in accordance with all applicable governmental minimum requirements.

Any fences or fencing placed on any Lot shall not exceed a height of 5 feet, and shall be approved prior to erection by Declarant, its successors or assigns. It is expressly understood that hurricane fencing shall not be permitted under any circumstances.

All garbage containers shall be decoratively screened so as not to be visible from the street or adjoining lots.

All solid waste and trash shall be placed at a designated point for pick-up upon notification by either County authority or contract operator. No laundry drying yards or clotheslines will be permitted on any Lot.

All culverts situated on a Lot, and running parallel to any street abutting a Lot shall be no less than eighteen (18) inches in width.

5. ANIMALS, LIVESTOCK AND POULTRY. No animals, livestock or poultry of any kind shall be raised, bred, boarded, pastured or kept on any Lot, excepting dogs, cats and other typical household pets not kept, bred or maintained in excessive numbers or for any commercial purpose, provided, however, that all animals permitted hereunder shall be kept within fences or upon a leash, and animals shall be kept under sanitary conditions.

6. SIGNS. No advertising signs, billboards or high and unsightly structures shall be erected or displayed on any Lot, except one professional sign of not more than one square foot, or one sign used to advertise the Lot for sale, of not more than five square feet, or signs used by a builder to advertise the property during the construction and sales period. Violators of this covenant shall be subject to a penalty of stipulated liquidated damages of \$10.00 for each day during which the violation continues. The recovery of such damages shall be available to

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the Owner of any Lot or parcel subject to this covenant by action at law or in equity, except that the violator shall not be required to pay damages to more than one complainant.

7. LOT APPEARANCE. No building or structure on any Lot shall be allowed to fall into neglect or disrepair. In the case of fire damaged buildings, they shall be demolished and the debris removed, or repaired or rebuilt within a reasonable time from such event. Failure by the Owner to take such action as is necessary to maintain, repair or replace such buildings after ten (10) days' written notice from Declarant, its successors, or assigns, shall allow Declarant, its successors or assigns, to repair or demolish and to charge the costs thereof as a lien against the Lot, which shall be enforceable by any means available at law or equity.

The Owner of each Lot shall keep his Lot in a neat and attractive condition. Upon failure to do so, Declarant, its authorized agents, successors and assigns may, after ten (10) days' written notice to such Owner, enter upon the Lot for the purpose of mowing lawns, removing dead trees, shrubs or other rubbish therefrom. Upon such action, the Owner shall be personally liable for the costs thereof and such costs shall be included in the Owner's annual assessment provided for herein, and shall be secured by an assessment lien upon said Lot enforceable by Declarant, its successors or assigns, by any proceeding at law or equity, pursuant to the terms hereof. All charges for such maintenance on the part of Declarant, its successors or assigns, shall be reasonable. Any work performed shall be done only between the hours of 7:00 a.m. and 6:00 p.m. on any day except Sunday and notice of such as above provided shall be sufficient to allow Declarant, its successors or assigns, and its agents to enter upon said Lot for the purposes abovesaid without being guilty of trespass.

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8. USE OF LAKE. Boating on the lake abutting Reserve A shall be limited to boats or canoes of less than sixteen (16) feet in length with only electric trolling motors or oars or paddles for propulsion with all other motors and sailing devices prohibited.

No Owner of a Lot shall stock the lake with fish or game or plants, and no Owner shall construct a dock or pier into the lake.

III.

EASEMENTS

1. Easements designated on said plat as roadways shall be dedicated to the public as public roadways and easements.

2. Declarant reserves unto itself, its successors and assigns, an easement and right to construct and maintain in, over and across the easements and streets shown on said plat, utilities of every kind, including, but not limited to sewers, drainage channels and power and communication lines and all pipes, lines and other appurtenances in connection therewith. An easement over a ten (10) foot portion of each Lot adjoining and contiguous to the roadway easement and over a five (5.0) foot portion of each Lot along each Lot's side lines and back line is hereby reserved for the installation and maintenance of said utilities, lines and pipes, together with the right to cut or fill to a reasonable slope the boundaries of all said roadways.

3. Within the herein described easements, no structure shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or roadways, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is

responsibile. No Owner may obstruct or rechannel the drainage flows after installation of drainage swales, storm sewers or utilities.

IV.

THE ASSOCIATION

1. ORGANIZATION. The Declarant shall cause the Association to be organized and formed as a non-profit corporation under the laws of the State of Texas.

2. PURPOSE. The purpose of the Association in general shall be to provide for and promote the health, safety, and welfare of the members, to collect the annual maintenance charges and any special assessments for capital improvements, to administer any maintenance fund, and such other purposes as are stated in the Articles of Incorporation consistent with the provisions of these Restrictive Covenants.

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 shall be selected by Declarant and each shall serve until his successor is duly elected and qualified as provided for in the Bylaws. Any vacancy, from whatever cause, occurring in the Board of Directors during the initial 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 initial 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 Waterbrook West 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.

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4. MEMBERS. Each Owner, whether one or more persons or entities, of a Lot 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 and may not be separated from such ownership. Whenever the legal ownership of any Lot 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.

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 Waterbrook West 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 Waterbrook West 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, 1985.

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 Waterbrook West in which it holds the interest required for membership by this Declaration.

V.

ARCHITECTURAL CONTROL COMMITTEE

1. No construction of buildings or exterior additions or alterations to any building situated upon the property nor construction of or changes or additions in fences (including but not limited to cyclone fences), hedges, walls and other structures (including but not limited to water wells and septic tank systems) shall be commenced, erected or maintained until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design, appearance and location in relation to surrounding structures by the Architectural Control Committee. Without modification or limitation of the foregoing, it is expressly understood that water wells and septic tanks located on the property shall comply with all relevant governmental regulations, and that said water wells and septic tanks shall be located on the property so as not to interfere with the proper operation of water wells and septic tanks located elsewhere on the property. In the event said committee, or its designated representatives, fails to approve or disapprove such plans within thirty (30) days after said plans have been submitted to it, approval shall not be required and this paragraph will be deemed to have been fully complied with. Neither the members of such committee nor its designated representative shall be entitled to compensation for services performed pursuant to this paragraph. The members of such committee need not be owners of any of the property.

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2. The original members of the Architectural Control Committee are William R. Senior and Denise Senior and they shall serve for a period of one (1) year. At the end of each one (1) year period Declarant, its successors and assigns, shall designate the members of the Architectural Control Committee for the succeeding one (1) year period and the number of the members of such committee may vary.

VI.

COVENANTS FOR MAINTENANCE ASSESSMENTS

1. CREATION OF THE LIEN AND PERSONAL OBLIGATIONS OF ASSESSMENTS. Declarant, for each Lot owned within Waterbrook West, hereby covenants, and each Owner of any Lot by acceptance of a Deed therefor, whether or not it shall be so expressed in any such Deed or other conveyance, shall be deemed to covenant to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments (together with such interest thereon and costs of collection thereof, including attorneys' fees, as hereinafter provided), 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 such interest, costs, and attorneys' fees also shall be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

2. PURPOSE OF ASSESSMENTS. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents of Waterbrook West (including but not limited to the services and facilities devoted to such purpose) and in particular (but without limitation of the foregoing) for the improvement, maintenance and preservation of the roadways within Waterbrook West ("Roadways") until such time as they are accepted for maintenance by the

public authority having jurisdiction thereof. The uses of such assessments may include, but are not limited to, defraying the cost to Association of the following: all insurance, repair, replacement and maintenance of the Roadways, maintenance of easements upon, constituting a part of, appurtenant to or for the benefit of the Lots (including pipes and other facilities necessary or appurtenant to utilities serving more than one Lot); mowing grass; garbage pickup; pest control; or other similar charges that the Association is authorized to incur and which the Association shall determine to be necessary or desirable to benefit the Owners of Lots in Waterbrook West, including the establishment and maintenance of a reserve for repair, maintenance, and other charges as specified herein.

3. BASIS AND MAXIMUM OF ANNUAL ASSESSMENTS.

(a) Until December 31, 1979, the maximum annual assessment shall be \$20.00 per Lot.

(b) From and after January 1, 1980, the Association may increase the maximum annual assessment effective January 1st of each calendar year to an amount not to exceed One Hundred Dollars (\$100.00) per Lot upon assent of at least fifty-one percent (51%) of the votes of the members who are voting in person or by proxy at the annual meeting or at a special meeting duly called or an amount in excess of \$100.00 upon assent of at least eighty percent (80%) of the votes of the members who are voting in person or by proxy at the annual meeting or at a special meeting duly called for the purpose of increasing the annual assessment, written notice of which setting forth the purpose of the meeting shall be sent to all members not less than ten (10) days nor more than fifty (50) days in advance of the meeting. After consideration of current maintenance costs and future needs of the members and Waterbrook West, the Association may levy the annual assessments at an amount not in excess of the maximum annual assessment approved by the members in accordance herewith.

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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 or reconstruction, unexpected repair or replacement of an authorized expenditure, provided that any such special assessment shall have the assent of eighty percent (80%) of the votes of the members who are voting in person or by proxy at the annual meeting or at a special meeting duly called for this purpose, written notice of which shall be sent to all members not less than ten (10) days nor more than fifty (50) days in advance of the meeting setting forth the purpose of the meeting.

5. QUORUM FOR ANY ACTION AUTHORIZED UNDER ARTICLE VI, SECTIONS 3 AND 4. At any meeting, the presence, in person or by proxy, at the meeting of members entitled to cast sixty percent (60%) of the votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to proper notice as set forth in Article VI, Sections 3 and 4 hereof, and the required quorum at any such subsequent meeting shall be the presence, in person or by proxy, of members entitled to cast thirty percent (30%) of the votes of the membership. No such subsequent meeting shall be held more than fifty (50) days following the preceding meeting.

6. UNIFORM RATE OF ASSESSMENT. Both annual and special assessments must be fixed at a uniform rate for all Lots regardless of location, and shall be collected in accordance with the provisions of Article VI, Section 7 hereof.

7. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS: DUE DATES: The Association shall fix the amount of the annual assessment against each Lot to be assessed at least thirty (30) days in advance of each assessment year, which shall be the calendar year; provided, however, that the Association shall have the right to adjust the annual assessment upon thirty (30) days'

written notice given to each owner of a Lot in Waterbrook West, as long as any such adjustment does not exceed the maximum permitted hereunder. Written notice of the annual assessment shall be sent as soon as is practicable to every Owner of a Lot in Waterbrook West subject thereto. The annual assessment for the year 1979 shall be \$20.00 per Lot and such amount shall be paid by the Owner of any Lot in Waterbrook West on the date such Lot is conveyed to such Owner and shall be prorated based upon the number of months remaining in that calendar year. After the first assessment year, the annual assessment for each succeeding calendar year shall be due and payable in advance on January 1st of such year. The Association shall, upon demand at any time furnish a certificate in writing signed by an officer of the Association setting forth whether the annual and special assessments on a specified Lot have been paid and the amount of any delinquency. A reasonable charge may be made by the Association for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

8. EXEMPT PROPERTY. All Lots owned by Declarant and Reserve A in Waterbrook West shall be exempt from assessments created herein. No other Lot shall be exempt from said assessments and the lien securing payment thereof.

9. EFFECT OF NON-PAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION.

(a) Affirmative and Independent Obligation to Pay Assessments. All payments of the assessments shall be made to the Association at its principal place of business in Fort Bend County, Texas, or at such other place as the Association may otherwise direct or permit. Payment shall be made in full regardless of whether any owner of a Lot in Waterbrook West has any dispute with the Declarant, the Association, any other Owner or any other person or entity regarding any matter to which this Declaration relates or

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pertains. Payment of the assessments shall be a continuing affirmative covenant both personal to the Owner of a Lot in Waterbrook West (other than Declarant) and any subsequent Owner of a Lot in Waterbrook West, and each prospective Owner, is hereby placed on notice that such provision may operate to place upon him the responsibility for the payment of delinquent assessments attributable to a period prior to the date he purchased his Lot.

(b) Delinquency. Any assessment provided for in this Declaration which is not paid when due shall be delinquent. If any such assessment is not paid within ten (10) days after the delinquency date, the assessment or the unpaid balance thereon, as the case may be, shall bear interest from the date of delinquency until paid at the rate of nine and one-half percent (9-1/2%) per annum, and the Association may, at its option, bring an action at law against the owner personally obligated to pay the same, or, upon compliance with the notice provisions set forth in Subparagraph (c) hereof, foreclose the lien against the Lot, and there shall be added to the amount of such assessment the late charge, the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include said interest and a reasonable attorneys' fee, together with costs of the action. Each Owner of a Lot in Waterbrook West vests in the Association, or its assigns, the right and power to bring all actions at law or lien foreclosures against such Owner of a Lot in Waterbrook West for the collection of such delinquent assessments. Under no circumstances, however, shall Declarant or the Association be liable to any Owner of a Lot in Waterbrook West or to any other person or entity for failure or inability to enforce or attempt to enforce any assessments.

(c) Notice of Lien. No action shall be brought to foreclose said assessment lien or to proceed under the power

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of sale herein provided less than thirty (30) days after the date a notice of claim of lien is deposited with the postal authority, certified or registered, postage prepaid, to the Owner of said Lot, and a copy thereof is recorded by the Association in the office of the County Clerk of Fort Bend County; said notice of claim must recite a good and sufficient legal description of any such Lot, the record Owner or reputed Owner thereof, the amount claimed (which may, at the Association's option, include interest on the unpaid assessment at the legal rate, plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by said lien) and the name and address of the claimant.

(d) Foreclosure Sale. Any such sale provided for above is to be conducted in accordance with the provisions applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law. The Association, through duly authorized agents, shall have the power to bid on the Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

(e) Curing of Default. Upon the timely curing of any default for which a notice of claim of lien was filed by the Association, the officers of the Association are hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting Owner of a reasonable fee, to cover the costs of preparing and filing or recording such release.

(f) Cumulative Remedies. The assessment lien and the rights to foreclose and sell thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its successors and assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided.

10. SUBORDINATION OF THE LIEN TO MORTGAGES. Subject to the condition that the Association be made a party to any court

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proceeding to enforce any lien hereinafter deemed to be superior, the lien securing the assessments provided for herein 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;

(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 becomes 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 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.

11. INSURANCE.

(a) The Association, or its duly authorized agent, shall have the authority to obtain a broad form public

liability policy covering all damage or injury caused by the negligence of the Association or any of its agents. Premiums for all such insurance shall be common expenses payable out of assessments. All such insurance coverage shall be written in the name of the Association and the Owners of Lots in accordance with the terms of this Declaration, and the Owners of Lots will cooperate with the Association by doing any and all such acts and things as may be necessary to effect such insurance.

(b) In the event that Declarant pays, on behalf of the Association, the initial premiums for insurance obtained by the Association, Declarant shall be reimbursed the full amount of such initial premiums by the Association upon demand made by Declarant after the Association shall have collected sufficient assessments from the Owners of the Lots with which to reimburse Declarant therefor.

12. ANNEXATION OF PROPERTY. Additional residential property and common area outside of Waterbrook West may be annexed to the Lots covered by the herein described assessments and subject to the jurisdiction and benefits of the Association, with the consent of 2/3 of the membership of the Association; provided, however, additional property owned by Declarant may be annexed by the Declarant without the consent of the membership of the Association.

VII.

GENERAL PROVISIONS

1. If anyone bound to observe and comply with these covenants shall violate or attempt to violate a covenant, it shall be lawful for any person owning an interest in any Lot subject to these covenants and/or the Association to prosecute any proceedings at law or in equity either to restrain or to prevent such violation or proposed violation in injunction, either prohibitive or mandatory, or recover damages for such violation or attempted

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violation or any other relief authorized by law, including Declarant, its successors and assigns, it being the intention of the restrictions that the remedies set forth herein shall be cumulative, and not restrictive of any other remedies available under law or equity. It is expressly understood that the prevailing party who asserted the action for violation or proposed violation of these covenants shall receive reasonable attorneys' fees from the party who violated or attempted to violate these covenants, in addition to any other remedies to which said prevailing party is entitled, either at law or in equity. Failure by the Association or by any Owner of a Lot in Waterbrook to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to enforce any other covenant or restriction.

2. Unless extended as hereinafter provided, each restriction, condition and covenant in this Declaration should terminate and be of no further force or effect on January 1, 2025, or on such earlier date following the expiration of 21 years (less than (1) day) after the death of the last survivor of all presently living descendants of those individuals constituting the Board of Directors of Declarant on the date hereof. By written approval of two-thirds of the then Owners of Lots in Waterbrook West (each owner having one (1) vote for each Lot owned in Waterbrook West but limited to one (1) vote per Lot) these Restrictive Covenants may, at any time, be altered, amended or extended, but no party shall be charged with notice or inquiry in connection with any such amendment, modification or termination until the instrument embodying the same shall actually be filed for record in the Office of the County Clerk of Fort Bend County, Texas.

3. Invalidation of any one of these covenants or any part or parts thereof in any instance or as applied to any particular situation by judgment or court order shall in no way affect the other provisions herein or other parts of such covenant or application thereof to other circumstances, but, to the contrary, all

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restrictive covenants herein contained shall remain in full force and effect during the term herein specified to the full extent and to all circumstances which may be legally enforceable.

4. All zoning regulations applicable to property covered by these covenants shall be observed. If there shall be a conflict between zoning regulations and these covenants, the more restrictive of the two shall apply.

5. Notwithstanding anything herein contained to the contrary, the portion of the property shown as Reserve "A" on said plat shall not be subject to or covered by these restrictions, easements, covenants or assessments unless and until Declarant subdivides said Reserve A into Lots and conveys such Lots so created to third parties other than Declarant or the officers, or their relatives, of Declarant. At the time any portion of Said Reserve A is sold by Declarant to any third parties the land so sold shall become subject to all of the restrictions, covenants, easements and assessments set forth herein.

6. The failure of Declarant, its successors and assigns, to prosecute or insist in any one or more cases upon strict performance of any of the terms shall not be construed as a waiver or relinquishment in the future of the right of enforcement and the acceptance or performance of anything required to be performed with the knowledge of the breach of any term or conditions shall not be a waiver of Declarant, its successors and assigns, of any terms, covenants or parts of any terms or covenants unless expressed in writing and signed by the parties. No waiver may be executed by Declarant, its successors or assigns, or any individual which would materially affect the rights of the other Owners in the tract.

7. As used throughout these restrictions, the name Declarant shall be deemed to include any person or entity succeeding to any interest said Declarant may have in said tract, including but not limited to the Association.

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The above restrictions executed by the Declarant on the date set forth in the acknowledgment below, but effective as of the 6 day of September, 1979.

WATERBROOK, INC.

By: William R. Senior
William R. Senior, President

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared William R. Senior, President of Waterbrook, Inc., a corporation, 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, as the act and deed of such corporation and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 6th day of September, 1979.

Karen S. Maddrey
Notary Public in and for
Harris County, Texas

My commission expires:

12-19-79

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KAREN S. MADDREY
Notary Public in and for Harris County, Texas
Commission Expires 12-19-79

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WATERBROOK WEST SUBDIVISION

BEING A 168.9749 ACRE TRACT OF LAND
IN THE MOSES SHIPMAN SURVEY, ABSTRACT 86
FORT BEND COUNTY, TEXAS

Being a 168.9749 acre tract of land in the Moses Shipman Survey, Abstract 86, Fort Bend County, Texas and also being out of that certain 170.006 acre tract of land conveyed to Waterbrook, Inc., by deed as recorded in Volume 726, page 501 of the Deed Records of Fort Bend County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at the Northeast corner of the above said 170.006 acre tract of land;

THENCE S 23° 00' 00" E following along the Westerly right-of-way line of McKeever Road, based on 60.00 feet in width, a distance of 2286.43 feet to a point for the Southeast corner of the tract of land herein described and of the said 170.006 acre tract;

THENCE S 88° 39' 06" W following along the South line of the said 170.006 acre tract of land a distance of 2097.64 feet to a point;

THENCE S 89° 06' 02" W continuing along the South line of the said 170.006 acre tract of land a distance of 2972.40 feet to a point for the Southwest corner of the tract of land herein described and the Southwest corner of the said 170.006 acre tract of land;

THENCE N 00° 01' 12" E following along the east line of the said 170.006 acre tract of land a distance of 815.15 feet to a point for corner;

THENCE N 73° 27' 33" E a distance of 334.40 feet to a point for corner;

THENCE N 00° 53' 58" W a distance of 144.83 feet to a point for corner; said point being in the North line of said 170.006 acre tract of land;

THENCE N 73° 27' 33" E following along the North line of said 170.006 acre tract of land a distance of 4023.64 feet to a point for the Northeast corner and the PLACE OF BEGINNING of the tract of land herein described.

FILED FOR RECORD

TIME 12:30 P.M. A.M. P.M.

SEP 19 1979

Pearl Ellett
COUNTY CLERK, FORT BEND COUNTY, TEX.

Duly recorded this the 20 day of September A.D. 1979 at 4:30 O'clock P.M.
By Rosalee Walters Deputy Pearl Ellett County Clerk
Fort Bend County, Texas