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DECLARATION OF COVENANTS, CONDITIONS

AND

RESTRICTIONS

FOR

NANTUCKET COURT TOWNHOMES

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RETURN TO HORNOR SHELTON
1100 MILAM BLDG. SUITE 1500
HOUSTON, TEXAS 77002

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THE STATE OF TEXAS I

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF HARRIS I

THIS DECLARATION, made on the date hereinafter set forth,

W I T N E S S E T H:

WHEREAS, SOUTHWEST URBAN CONSTRUCTION, INC., a Texas Corporation, is the owner of Lots 162 and 163, in Block 6 of WESTHAVEN ESTATES, SECTION ONE (1), an addition in Houston, Harris County, Texas, according to the map or plat thereof recorded in Volume 29, Page 47, of the Map Records of Harris County, Texas; and

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WHEREAS, Declarant (as hereinafter designated) desires to develop and have operated said property (together with such other property as may be annexed pursuant to the terms and provisions hereinafter set forth) as a planned development; and

WHEREAS, six (6) building lots have been designated out of said property, and all of the remainder of said property shall constitute Common Area.

NOW THEREFORE, Declarant (as hereinafter designated) hereby declares that all of the property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property. These easements, covenants, restrictions, and conditions shall run with the real property and be binding on all parties having or acquiring any right, title or interest in the above described properties or any part thereof their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Declarant" shall mean and refer to SOUTHWEST URBAN CONSTRUCTION, INC., its successors and assigns if such successors and assigns should acquire more than one undeveloped Lot from the Declarant and the owner of any property annexed pursuant to the terms and provisions of Section 5 of Article X hereof.

Section 2. "Association" shall mean and refer to NANTUCKET COURT OWNERS ASSOCIATION, INC., its successors and assigns.

Section 3. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. However, the term "Owner" shall include any mortgagee or lienholder who acquires fee simple title to any

Lot which is a part of the Property, through judicial or non-judicial foreclosure or by Deed in Lieu of foreclosure.

Section 4. "Property" shall mean and refer to that certain real property hereinbefore described, and such additions as may hereafter be brought within the jurisdiction of the Association.

Section 5. "Common Area" shall mean that portion of the Property owned by the Association for the common use and enjoyment of the members of the Association and shall include, but is not limited to, all trees, landscaping, sprinkler systems, pavements, streets, pipes, wires, conduits, and other public utility lines situated thereon. The Common Area shall mean and refer to all of the property save and excepts: (a) The lots upon which there is, or will be, constructed single family townhouses to be conveyed to owners by Declarant, and (b) the area adjoining such buildings, upon which a portion of a building is constructed, such area to be or having been conveyed to Owners by metes and bounds description in accordance with Article XI hereof.

Section 6. "Lot" is any parcel of land on which there is or will be built a Townhouse and which will be conveyed by lot number and/or metes and bounds description to an Owner for his use as a residence.

Section 7. "Townhouse" shall mean a single family residential unit constructed on a Lot which may be joined together with at least one more single family residential unit by a common wall, or walls, and/or roof and/or foundation.

Section 8. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 9. "Lienholder" shall mean the holder of a first lien mortgage on any Townhouse in the development.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to make, publish and enforce reasonable Rules and Regulations for the use of the Common Area and any facilities situated thereon, including but not limited to the use and maintenance of the Common Area, and the right of the Association to contract for exclusive services such as water, sanitary sewage, trash collection and landscaping maintenance to each Lot.

(b) The right of the Association to suspend the voting rights and right to use of the facilities owned by the Association, excluding domestic water, by a Member 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.

(c) The right of the Association to dedicate or transfer all or any part of the Common area to any public agency

or authority subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless (i) an instrument of agreement to such dedication or transfer, signed by two-thirds (2/3) of each class of Members entitled to vote is properly recorded, in the Deed Records of Harris County, Texas, and (ii) written notice of proposed action under this provision is sent to every Owner and Lienholder not less than ten (10) days, nor more than fifty (50) days in advance of said action.

(d) The right of the Association to limit the number of guests of Members and to prohibit Members who do not occupy their Townhouse(s) from using the Common Area facilities when the Townhouse(s) is occupied by a Tenant other than the Owner.

(e) The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof and, with the consent of all Lienholders, to mortgage said property, and the rights of such mortgagee in said properties shall be subordinate and inferior to the rights of the Owners hereunder;

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. The Owners hereby covenant that any lease executed on a Lot shall be in writing and contain provisions binding any lessee thereunder to the terms of the Covenants, Conditions and Restrictions, the By-Laws, and the rules and regulations applicable to the property and further providing that non-compliance with the terms of the lease shall be a default thereunder.

Section 3. Title to the Common Area. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Common Area to the Association, free and clear of all encumbrances and liens. The Common Area shall remain undivided and shall at all times be owned by the Association or its successors, it being agreed that this restriction is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Common Area.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every person or entity who is a record owner of a fee or an undivided fee interest in any Lot which is subject, by covenants of record, to assessment by the Association, including contract sellers, 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 any ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership. Any mortgagee or lienholder who acquires title to any Lot which is a part of the Property, through judicial or non-judicial foreclosure or by Deed in Lieu of foreclosure, shall be a member of the Association.

Section 2. Classes of Voting. 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 owned. When more than one person holds such interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B Member(s) shall be the Declarant, and its successors, and shall be entitled to three (3) votes for each Lot owned, provided that the 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 the third (3rd) anniversary date of this Declaration.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessment. The Declarant, for each Lot Owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be expressed in any such deed or other conveyance, is deemed to covenant and agree 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 as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be secured by a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest, costs, and reasonable attorney's fees, shall 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. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, and welfare of the residents in the Property and in particular for the improvement, operation, administration, management and maintenance of the Property, the Common Area and services and facilities relating to the use and enjoyment thereof and of the Townhouses situated thereon. Assessments shall include, but are not limited to, funds to cover actual Association costs for all taxes, insurance, repair, replacement and maintenance of the Common Area and of the maintenance of the exteriors of the Lots or Townhouses as herein authorized or as may from time to time be authorized by the Board of Directors; and the cost of other facilities and service activities including, but not limited to, mowing grass, caring for the grounds, sprinkler system, landscaping,

exterior walls and fences of the Townhouses, garages, garage pickup areas, water and sewage service furnished to Townhouses by the Association, and other charges required by this Declaration of Covenants, Conditions, and Restrictions or that the Board of Directors of the Association shall determine to be necessary to meet the primary purpose of the Association, including the establishment and maintenance of a reserve for repair, maintenance, taxes and other charges as specified herein. It being understood that the judgment of the Board of Directors of the Association in establishing annual assessments, special assessments and other charges and in the expenditure of said funds shall be final and conclusive so long as said judgment is exercised in good faith.

Section 3. Basis and Maximum of Annual Assessments.

(a) Until January 1, 1983, the maximum annual assessment for each unit shall be TWO THOUSAND ONE HUNDRED AND NO/100 DOLLARS (\$2,100.00).

(b) From and after January 1, 1983, the maximum annual assessment may be increased, effective January 1 of each year, without a vote of the membership in conformance with the increase, if any, of the Consumer Price Index, Houston, Texas, Standard Metropolitan Statistical Area, All Urban Consumers, published by the U. S. Department of Labor, Bureau of Labor Statistics, Washington, D.C. 20212, for the month of July in the year prior to the year for which the increase is being imposed, over the Consumer Price Index for July of 1981.

(c) From and after January, 1983, the maximum annual assessment may be increased above the assessment established in Section 3(b) above, provided that any such change shall have the assent of two-thirds (2/3) of each class of all votes of the Association entitled to be cast, at a meeting duly called for this purpose. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident of consolidation in which the Association is authorized to participate under its Articles of Incorporation.

(d) After consideration of current maintenance costs and future needs of the Association, the Board of Directors may levy the annual assessments at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvement.

In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to the year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a described capital improvement upon the Common Area, including the necessary 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 of the Association who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than ten (10) days nor more than fifty (50) days in advance of the

meeting and shall set forth the purposes of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all votes of each class of membership of the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called, subject to the same notice requirement, and the required quorum shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rates of Assessment. Unless approved by all Lienholders, both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis: i.e., 1/12th of the annual assessment on each Lot each month, as follows:

(a) Occupied Lots, those Lots containing an occupied Townhouse or which have been sold to an Owner other than Declarant shall be assessed the full assessment as set by the Association.

(b) Completed Lots, those Lots containing a completed (meaning habitable although requiring minor finishing detail) but unoccupied Townhouse, shall be assessed fifty percent (50%) of the full assessment as set by the Association.

(c) Notwithstanding the provisions of this Section 6 above, the Declarant shall make up the difference, if any, between the cost of maintenance of the Common Area and the total assessments due as herein provided until such time as all of the Lots are occupied.

Section 7. Date of Commencement and Due Date of Annual Assessments. The annual assessments provided for herein shall commence as to all Lots no later than the first day of the month following the conveyance of the Common Area to the Association. 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 shall be sent to every Owner subject thereto. Assessments shall be due and payable monthly or as otherwise directed 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 have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments and Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the due date at the maximum non-usurious rate of interest per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. Interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each such Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against

such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien foreclosure on real property, and such Owner expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all Lot owners. 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.

Section 9. Subordination of the Lien to Mortgages.

The lien securing the assessment provided for herein shall be subordinate to the lien of any mortgage or mortgages granted or created by the Owner of any Lot to secure the payment of monies advancing and used for the purpose of purchasing and/or improving such Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to a foreclosure under such purchase-money or improvement mortgages, or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property.

All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization shall be exempt from the assessments created herein, except no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 11. Management Agreements.

Each Owner of a Lot hereby agrees to be bound by the terms and conditions of all management agreements, if any, entered into by the Association. A copy of such agreements shall be available to each owner. Any and all management agreements entered into by the Association shall provide that said management Agreement may be cancelled with thirty (30) days written notice for cause and without cause when authorized by sixty (60%) per cent of the votes of each class of the Members of the Association. Any and all management agreements shall be for a term not to exceed one (1) year and shall be made with a professional and responsible party or parties with proven management skills and experience managing a project of this type.

Section 12. Insurance Requirements.

(a) Each Owner shall be required to furnish annually to the Association, and to the complete satisfaction of the Board of Directors, proof of insurance coverage on his Townhouse by a reputable insurance company acceptable to the Association and licensed to do business in the State of Texas, in an amount equal to the replacement cost to the Townhouse, affording protection against loss or damage from fire or other hazards covered by the standard extended coverage endorsement. In the event of damage or destruction of a Townhouse, the Owner thereof shall repair or rebuild such Townhouse in as good a condition as formerly. In the event said Owner fails or refuses to do so, the Association is hereby authorized to undertake to rebuild or repair the Townhouse and assess said Owner for the cost of such repair

or replacement, plus interest thereon at the rate of ten (10%) per cent per annum until paid. Such assessment shall become the personal obligation of said Owner and shall be enforceable as if it were a maintenance assessment as herein provided. Should an Owner fail to provide adequate proof of insurance coverage as herein provided, the Association shall have the authority to purchase such coverage. Premiums for any insurance obtained by the Association on individual Townhouses shall not be part of the common expense but shall be a debt owed by the Owner of said Townhouse and shall become part of the assessments payable by said Owner and collectible as such as herein provided.

(b) The Association, through the Board of Directors, or its duly Authorized agent, shall obtain the following types of insurance policies covering the Common Area and covering all damage or injury caused by the negligence of the Association or any of its agents:

(1) Property insurance in an amount equal to the full replacement value of the common facilities owned by the Owners Association (including all building service equipment and the like) with an "Agreed Amount Endorsement" or its equivalent, a "Demolition Endorsement" or its equivalent, and, if necessary, an "Increased Cost of Construction Endorsement" or "Contingent Liability from Operation of Building Laws Endorsement" or the equivalent, affording protection against loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage and any such other risks as shall customarily be covered with respect to projects similar in construction, location and use;

(2) A comprehensive Policy of public liability insurance covering all of the common areas located in the project insuring the Association, with such limits as it may consider acceptable (and not less than \$1,000,000 covering all claims for personal injury and/or property damage arising out of a single occurrence), such coverage to include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others, and, any other coverage the Association deems prudent and which is customarily carried with respect to projects similar in construction, location and use; and

Premiums for all such insurance shall be a common expense payable from property assessments. Liability and personal property insurance for Lots and the contents of Townhouses shall be the responsibility of and at the expense of each individual Owner. In the event of damage or destruction by fire or other casualty to any property (including insurance on individual townhouses as provided above) covered by insurance written in the name of the Association, the Board of Directors shall, upon receipt of the insurance proceeds contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal governmental agency, with the proviso agreed to by said bank or institution that

such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors. The Board of Directors shall advertise for sealed bids with any licensed contractors, and then may negotiate with any contractor, who shall be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of such destroyed building or buildings. In the event the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors shall levy a special assessment against all Owners of the damaged Townhouses in such proportions as the Board of Directors deems fair and equitable in the light of the damage sustained by such Townhouses to make up any deficiency, except that the special assessment shall be levied against all Townhouse Owners, as provided herein, to make up any deficiency for repair or rebuilding of the Common Area not a physical part of a Townhouse unit. In the event that such insurance proceeds exceed the cost of repair and reconstruction, such excess shall be paid over to the respective mortgagees and Owners of the damaged Townhouses in such proportions as the Board of Directors deems fair and equitable in the light of the damage sustained by such Townhouses.

(c) In the event of substantial damage to or destruction of any unit, as determined by the Association, written notice of such damage or destruction shall be given by the Association to the first lienholder on such unit within ten (10) days after such damage or destruction. Should the first lienholder fail to concur in the application of the insurance proceeds to the cost of repair and restoration, such proceeds shall first be applied to the sums secured by the first mortgage, with the excess, if any, applied to the cost of repair and restoration of such Townhouse and other property.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon any Lot, or the patio or garage used in connection with any Lot, after the purchase of any Lot from Declarant, its successors or assigns, nor shall any exterior addition to or change or alteration thereof be made until the plans and specifications showing the nature, color, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structure and topography by the Board of Directors of the Association, or by an Architectural Committee composed of three (3) or more Owners appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Approval, once given, shall be irrevocable.

ARTICLE VI

EXTERIOR MAINTENANCE

Section 1. Definition. In addition to maintenance upon

the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replacement and care of roofs, gutters, down-spouts, exterior building surfaces, fences, walks, trees, shrubs, grass, walks and other like exterior improvements. Such exterior maintenance shall not include glass surfaces, window and door fixtures and hardware, weather stripping, air conditioning equipment, owner landscaping and enclosed patio areas.

Section 2. Owner's Maintenance. The Owner shall maintain and keep in repair the enclosed patio areas and the following equipment and lines located outside the residence: air conditioning compressor condenser, including pipes and electrical lines connecting same to the residence, sanitary sewer line connecting the residence to the sanitary sewer collection system, electric circuit breakers, any portion of natural gas, and/or telephone service lines located on the Lot but not maintained by the gas and/or telephone companies; provided, however, that any lines, pipes, wires, conduits or systems running through a residence which serve one or more residences and which are not maintained by any utility company, shall be operated, repaired and maintained by the Association, and shall not be distributed or relocated by an Owner without the written consent and approval of Declarant or the Association. An Owner shall do no act nor any work that will impair the structural soundness or integrity of another residence or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other residences or their Owners.

Section 3. Neglect of Owner. In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or guests, invitees, employees or agents, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

Section 4. Authority of Association. In the event an Owner is responsible for certain exterior maintenance, including enclosed patios, as set forth in the Rules and Regulations of the Association and such Owner shall fail to maintain the premises and improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and any improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

ARTICLE VII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Townhouses upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. If a wall which is intended as a party wall is situated entirely or partly on

one Townhouse building plot instead of on the divided line between Townhouse building plots, due to error in construction, such wall shall nevertheless be deemed to be on the dividing line and shall constitute a party wall for the purposes of this Article. Reciprocal easements shall exist upon and in favor of the adjoining Townhouse building plots for the maintenance, repair and reconstruction of the party walls.

Section 2. Sharing of Repair and Maintenance. ~~Cost of reasonable~~ repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the Land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor, the Board of Directors of the Association shall select an arbitrator for the refusing party.

ARTICLE VIII

USE RESTRICTIONS

Section 1. Residential Use. Except for Common Area facilities, the Property is hereby restricted to residential dwellings for residential use only. Except as provided herein, the Common Area shall not be used for any commercial purposes. All buildings or structures erected upon said Property, except for the Common Areas, shall be of new construction and no buildings or structures shall be moved from other locations onto said Property and no subsequent buildings or structures other than Townhouses shall be constructed. No structures of a temporary character, including trailers, motor vehicles, tents, shacks, or other out-buildings, may be used on any portion of said Property at any time as a residence, either temporarily or permanently.

Section 2. Freehold Estate. Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions

hereof.

Section 3. Use by Declarant. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant or the Builder of said Townhouses to maintain, during the period of construction and sale of said Townhouses, upon such portion of the premises as Declarant deems necessary, such facilities as in the sole opinion of the Declarant may be reasonably required, convenient or incidental to the construction and sale of said Townhouses, including, but without limitation, a business office, storage area, construction yards, model units and sales office.

Section 4. Animals. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any of said Lots, except that reasonable numbers, consistent with a resident, of dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes.

Section 5. Signs. No advertising signs (except not more than one (1) five square foot "for rent" or "for sale" sign per Lot), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on said Property, nor shall said Property be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Townhouse or any resident thereof. Declarant, however, shall have the sole right to erect identifying signs of any size at each entrance to the Subdivision. The Board of Directors reserves the right to approve the design and wording of all signs, and reserves the right to enter in and upon any Lot for the purposes of removing any sign being maintained thereon which has not been approved and shall not be liable to any person or persons for any damages of whatever nature in doing so in a reasonable manner. No business activities of any kind whatever, whether part time or full time, shall be conducted in any Townhouse or in any portion of said Property; provided, however, the foregoing covenants shall not apply to the business activities, signs and billboards, or the construction and maintenance of buildings, if any, of Declarant, its agents and assigns during the construction and sale period, or of the Association as incorporated or to be incorporated under the laws of the State of Texas, its successors and assigns, in furtherance of its powers and purposes as herein set forth.

Section 6. Garbage. All rubbish, trash, and garbage shall be kept in containers within the areas provided with each Townhouse and designated by the Association for collection purposes.

Section 7. Landscaping. No planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon said Property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Association's Board of Directors or their designated representative. Except for the right of ingress and egress, the Owners of the Lots are hereby prohibited and restricted from using any of said Property outside the exterior building lines, patio and garage areas, except as herein provided or as may be allowed by the Association's Board of Directors. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all Owners

of Lots in the Property and is necessary for the protection of said Owners. 192-91-1269

Section 8. Antennae. Without prior written approval of the Board of Directors, no exterior television or radio antennae of any sort shall be placed, allowed or maintained upon any portion of the Property, when the same is visible from the street fronting the Property, nor upon any structure situated upon the Property other than an aerial for a master antenna system, should any such master system or systems be utilized and require any such exterior antenna.

Section 9. Storage of Vehicles. No outdoor parking space on the Property shall, without express permission of the Association, be used for storage of campers, boats, trailers, unused or inoperable automobiles or any other items which the Association deems unsightly or inappropriate, and all outdoor parking spaces shall be used by Owners subject to the rules and regulations of the Association.

Section 10. Nuisance. No noxious or offensive activity shall be carried on upon any Lot, or the Common Area, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the other Owners. No repair work, dismantling or assembling of motor vehicles or any other machinery or equipment shall be permitted in any street, driveway or yard adjacent to a street, or in the Common Area. No vehicle shall be parked on streets or driveways so as to obstruct ingress or egress by the Owners of Lots, their families, guests and invitees except for the reasonable needs of emergency, constructions, or service vehicles for a time limited to as briefly as possible. For a period not to exceed forty-eight (48) hours, family, guests and invitees of Owners of Lots may park their vehicles in the guest parking areas. Guest parking areas are not intended for use by the Owners of Lots for parking or storing boats, trailers, camping units, or any personal vehicles and the Architectural Control Committee may insure the proper use of said areas in such legal manner as it deems necessary.

Section 11. Discrimination. No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against Owner or Owners in favor of the other Owners.

ARTICLE IX

EASEMENTS

Section 1. Minor Encroachments. Each Townhouse and the Property included in the Common Area shall be subject to an easement for minor encroachments created by construction, setting, overhangs, brick ledges, balconies, fences or other protrusions designed or constructed by Declarant and for the maintenance (if any) of same, so long as it stands, and shall and does exist. In the event the multi-family structure containing two Townhouses is partially or totally destroyed, and then rebuilt, the Owners of the Townhouses so affected agree that minor encroachments onto parts of the adjacent Townhouse units or Common Areas due to construction or repair shall be permitted and that a valid easement for such encroachment and the maintenance thereof shall exist.

Section 2. Blanket Easement. There is hereby created a blanket easement upon, across, over and under said Property

for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewer, gas, telephone and electrical, and a master/cable television antenna system and/or cable. By virtue of this easement, it shall be expressly permissible for the providing electrical, telephone and/or cable company to erect and maintain the necessary equipment on said Property and to affix and maintain electrical, cable and/or telephone wires, circuits and conductors on, above, across and under the roofs and exterior walls of said Townhouses. An easement is, in addition, specifically granted to the United States Post Office Services, its agents and employees to enter upon the streets, Common Areas and Lots in the performance of mail delivery or any other United States Post Office Services. An easement is further granted to all police, fire protection, ambulance and all similar persons to enter upon the streets and Common Areas in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and to any management company duly selected by the Association, to enter in or to cross over the Common Area and/or any Townhouse to perform the duties of maintenance and repair of the Townhouse or Common Area provided for herein. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said Property except as initially programmed and approved by the Declarant owning the portion of said Property affected by said utility installation or location or thereafter approved by said Declarant or the Association's Board of Directors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant or the Association shall have the right to grant such easement on the portion of said Property owned by it without conflicting with the terms hereof. The easements provided for in this Article IX shall in no way affect any other recorded easement on said premises.

Section 3. Underground Electrical Service. Underground single phase electric service shall be available to all residential Townhouses of the aforesaid Lots and to the facilities to be constructed on the Common Areas, and the metering equipment shall be located on the exterior surfaces of walls at points to be designated by the utility company. The utility company furnishing the service shall have a two (2) foot wide easement along and centered on the underground electric power service conductors installed from the utility company's easement to the designated point of service on the Townhouse structure for service and maintenance of its conductors and metering equipment. For so long as such underground service is maintained, the electric service to each Townhouse and the Common Area facility 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, walkways, and patio areas, provided the Declarant or Builder makes prior arrangements with the utility company furnishing such service. Such easements for the underground service shall be kept clear of all buildings and neither Declarant nor Utility Company using the easement 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 of the Owner located on the land covered by said easements.

ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement. The Association or any Owner shall have the right to enforce, by and proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and 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. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for a term of twenty (20) years from the date of this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless at the end of the original term or any extension thereof, a document signed by Owners of not less than seventy-five percent (75%) of the Lots evidencing their desire not to extend is properly recorded in the Real Property Records of Harris County, Texas.

Section 4. Amendment. These Covenants, Conditions and Restrictions may be amended at any time: (1) so long as Declarant is a Class B member of the Association, by Declarant, without the approval of any Owner or any Lienholder, or (2) by an instrument signed by Owners of not less than seventy-five percent (75%) of the Lots. Any amendment must be properly recorded in the Real Property Records of Harris County, Texas. However, notwithstanding the above, all first lienholders shall be given written notice of any proposed termination or amendment at least thirty (30) days prior to the submission to the Members of said proposed amendment or any document electing not to extend these covenants as herein provided and any amendments to (i) allow the Members to alienate the Common Area without the consent of all Lienholders or (ii) to change the ratio of assessments against Owners as herein provided must have the approval of such first lienholders, except for a change in the ratio of assessment caused by a phasing or annexation as provided in Section 3 hereof, so long as said change results in a prorate assessment between all members after said joinder or annexation.

Section 5. Annexation of Additional Property. Annexation of additional property shall require the assent of all first lienholders and two-thirds (2/3) of each class of members of the Association at a meeting duly called for this purpose. Written notice of which shall be sent to all members and first lienholders not less than ten (10) days nor more than fifty (50) days in advance of the meeting setting forth the purpose of the meeting. Any improvements on property so annexed must be of comparable style, quality, size and cost in order to preserve the appearance and value of the real property.

Section 6. Lienholders. Anything to the contrary contained herein notwithstanding, all lienholders shall have the right to: (a) inspect the books and records of the Association during normal working hours, (b) receive written notice of all meetings of the Association, (c) designate a representative to attend all such meetings, and (d) receive notice of abandonment or termination of the Association. Notice to and approval of Lienholders shall be in accordance with the By-Laws of the Association.

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

Section 8. Notice of Condemnation or Eminent Domain. If all or any part of the Common Area or a Townhouse is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary), the Association shall be entitled to participate in proceedings incident to its interest at its expense. The Association shall give timely written notice of the existence of such proceedings to all First Mortgagees known to the Association to have an interest in any affected Townhouse. The expense of participation in such proceedings by the Association shall be paid out of the maintenance assessments. The Association is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Association in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings. All damages or awards for any such taking shall be deposited with the Association. In no event shall the Association make pro-rata disbursements to any Owners of such award, without the prior written consent of the first mortgagees. The Association, in addition to the general powers set out herein, shall have the sole authority to determine whether to defend or resist any such proceeding, to make any settlement with respect thereto; or to convey such Common Area to the condemning authority in lieu of such condemnation proceeding. With respect to any such taking, all damages and awards shall be determined for such taking as a whole and not for each Owner's interest therein. The Association, if it deems advisable, may call a meeting of the Owners, at which meeting the Owners, by a majority vote, shall decide whether to replace or restore as far as possible the Common Area so taken or damaged.

EXECUTED by the Declarant herein this 6th day of August, 1981.

DECLARANT:

SOUTHWEST URBAN CONSTRUCTION, INC. 107

By: Bill Palmer
President

A T T E S T :

By: Walter Chamberlain
Assistant Secretary

THE STATE OF TEXAS I
COUNTY OF HARRIS I

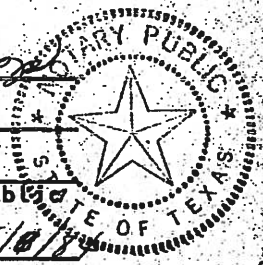
BEFORE ME, the undersigned authority on this day personally appeared Bill Palmer, Vice President of SOUTHWEST URBAN CONSTRUCTION, INC., INC., known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes 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 6th day of August, 1981

Carolyn A. Jessop
NOTARY PUBLIC IN AND FOR
Harris County

CAROLYN A. JESSOP
Printed Name of Notary Public

My Commission Expires: 5/10/82



STATE OF TEXAS }
COUNTY OF HARRIS }
I hereby certify that this instrument was FILED in file number Sequence on the date and at the time stamped herein by me and was duly RECORDED, in the Official Public Records of Real Property of Harris County, Texas on

AUG 12 1981



Quita Robinson
COUNTY CLERK,
HARRIS COUNTY, TEXAS

FILED
AUG 12 2:36 PM 1981
Quita Robinson
COUNTY CLERK
HARRIS COUNTY, TEXAS