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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

144-40-0200

THE STATE OF TEXAS I
COUNTY OF HARRIS I

KNOW ALL MEN BY THESE PRESENTS: THAT

THIS DECLARATION, made on the data hereinafter set forth by JAMES L. GOETZKE BUILDING COMPANY, hereinafter referred to as "Declarant",

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Harris, State of Texas, known as MEMORIAL ASHFORD TOWNHOUSE APARTMENTS, and which is more particularly described as follows:

All that certain tract or parcel of land containing 5.9275 acres, more or less, and being a part of Tract lettered "C" in Block Two (2), of WESTCHESTER SUBDIVISION, SECTION THREE (3), an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 153 at page 106 of the Map Records of Harris County, Texas; and which said 5.9275 acres of land, more or less, is more particularly described by metes and bounds as follows, to-wit:

BEGINNING at a 5/8 inch iron rod marking the southwest corner of Tract "C", Block 2 of Westchester, Section 3, a plat recorded in Volume 153, Page 106 of the Harris County Map Records, said corner being also in the east right of way line of Thicket Lane based on a width of 60.00 feet;

THENCE N 00° 38' 12" E, 490.00 feet along the west line of the said Tract "C" and the east right of way line of the said Thicket Lane to a point for corner;

THENCE N 45° 38' 12" E, 14.14 feet to a 5/8 inch iron rod marking the most northerly northwest corner of the said Tract "C" and the herein described tract, said corner being also in the south right of way line of Perthshire Road based on a width of 60.00 feet;

THENCE S 89° 21' 48" E, 506.50 feet along the north line of the said Tract "C" and the south right of way line of the said Perthshire Road to the northeast corner of the herein described tract;

THENCE S 00° 38' 12" W, 500.00 feet to the southeast corner of the herein described tract, said corner being in the south line of the said Tract "C";

THENCE N 89° 21' 48" W, 516.50 feet along the south line of the said Tract "C" to the POINT OF BEGINNING and containing 5.9275 acres of land.

AND WHEREAS, Declarant will convey portions of the said properties, subject to certain protective covenants, conditions, restrictions, liens and charges as hereinafter set forth;

NOW THEREFORE, Declarant hereby declares that all of the properties 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 be binding on all parties having or acquiring any right, title or interest in the above described properties or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to MEMORIAL ASHFORD TOWNHOUSE CORPORATION, its successors and assigns.

Section 2. "Property" shall mean and refer to that certain real property hereinafore described, and such additions as may hereafter be brought within the jurisdiction of the Association.

Section 3. "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 recreational facilities, community facilities, swimming pools, pumps, trees, landscaping, sprinkler systems, pavements, streets, pipes, wires, conduits, and other public utility lines situated thereon, but shall not include any portion of the Twelve Building Locations or any portion of such locations hereinafter described as a "Lot".

Section 4. "Lot" shall mean and refer to that portion of any of the Twelve Building Locations on which there is or will be constructed a single family townhouse. For all purposes hereunder, it shall be understood and agreed that said Twelve Building Locations constitute 69 separate Lots, and Declarant shall be the owner of all said 69 Lots SAVE AND EXCEPT any those particular Lots which Declarant conveys in fee simple title by recordable deed from and after the date hereof. "Townhouse" shall mean a single family residence unit constructed on a Lot as a part of a residential building containing two or more single family residences.

Section 5. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 6. "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.

Section 7. "Declarant" shall mean and refer to JAMES L. GOETTER BUILDING COMPANY, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation of additional property shall require the assent of two-thirds (2/3) of the members, without regard to Class, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days in advance of the meeting setting forth the purpose of the meeting. The presence of members or of proxies entitled to cast sixty percent (60%) of the votes of the members shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting. The Class A members not present may give their written consent to the action taken thereat.

ARTICLE III

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by assessments 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 foreclosures, shall be a member of the Association.

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ARTICLE IV
VOTING RIGHTS

The Association shall have two classes of voting memberships:

Class A. Class A members shall be all those Owners as defined in Article III with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article III. 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 vote be cast with respect to any 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 which it holds the interest required for membership by Article III, 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) two years from the date hereof.

ARTICLE V
PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment. Every member 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 assessed Lot, subject to the following provisions:

- (a) the right of the Association to limit the number of guests of members;
- (b) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (c) 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 to mortgage said property, and the rights of such mortgage in said properties shall be sub-ordinate to the rights of the homeowners hereunder;
- (d) the right of the Association to suspend the voting rights and right to use of the recreational facilities by a member for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 30 days for any infraction of its published rules and regulations;
- (e) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility, for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by members entitled to cast two-thirds (2/3) of the votes of the Class A membership and two-thirds (2/3) of the votes of the Class B membership, if any, has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member not less than 30 days nor more than 60 days in advance; and
- (f) the right of the individual owners to the exclusive use of the parking spaces as provided in this Article.

Section 2. Delegation of Use. Any member 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.

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, prior to the conveyance of the first Lot. 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.

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Section 4. Parking Rights. Ownership of each Lot shall entitle the owner or owners thereof to the exclusive use of a carport covering two automobile parking spaces which shall be appurtenant to the patio area of said Lot, together with the right of ingress and egress in and upon said parking areas. Further, prior to any liquidation or dissolution of the Association, the Association shall convey to the owner of each Lot the land consisting of the parking spaces then being used by such lot owner under the terms of this Section 4.

ARTICLE VI

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 from time to time 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 a continuing lien upon the property against which each such assessment is made. To secure the payment of said annual assessment, there is reserved a Vendor's lien on each Lot for the benefit of Memorial Ashford Townhouse Corporation, said liens to be enforceable through appropriate proceedings at law by such beneficiary; provided, however, that each such lien is specifically made secondary, subordinate and inferior to all liens, present and future, given, granted and created by or at the instance and request of the owner or owners of any such lot to secure the payment of monies advanced or to be advanced on account of the purchase price and/or the improvement of any such lot. Each such assessments, together with such interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Property and in particular for the improvement and maintenance of the Property, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, and of the homes situated upon the Property. They shall include, but are not limited to, funds for the actual cost to the Association of all taxes, insurance, repair, replacement and maintenance of the Common Area and of the maintenance of the exteriors of the Lots or Townhouses as may from time to time be authorized by the Board of Directors, and other facilities and activities including, but not limited to, mowing grass, caring for the grounds, sprinkler system, landscaping, swimming pool, recreational buildings and equipment, roofs and exterior walls of the Townhouses, carports, including roofs, garbage pickup, water and sewerage 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.

Section 3. Basis and Maximum of Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Four Hundred Twenty Dollars (\$420.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased effective January 1 of each year without a vote of the membership in accordance with the rise, if any, of the Consumer Price Index (published by the Department of Labor, Washington, D. C.) for the preceding month of July.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above that established by the Consumer Price Index formula by a vote of the members for the next succeeding two years and at the end of each such period of two years, for each succeeding period of two years, provided that any such change shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. The limitations herein shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

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(c) After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment 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 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 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 who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting.

Section 5. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis with each Lot Owner paying an amount equal to that paid by each of the other Lot Owners.

Section 6. Quorum for Any Action Authorities Under Sections 3 and 4. At the first meeting called, as provided in Sections 3 and 4 hereof, the presence at the meeting of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 3 and 4, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to each Lot on the first day of the month following the conveyance of said Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors and, unless otherwise provided, the Association shall collect each month from the owner of each Lot 1/12th of the annual assessment for such Lot. The Association shall upon demand at any time furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Nonpayment of Assessments; 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 date of the delinquency at the rate of 8 percent 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, and 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 Memorial Ashford Townhouse Corporation, 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 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 other Lot owners. The Association, acting on behalf of the Lot owners shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same; and to subrogate so much of its right to such liens as may be necessary or expedient to an insurance company continuing to give total coverage notwithstanding nonpayment of such defaulting owner's portion of the premium. 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 of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages. Sale or transfer of any Lot shall not affect the assessment lien. However the sale or transfer of any Lot which is subject to any mortgage, pursuant to a decree of foreclosure under such mortgage 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 assessment thereafter becoming due or from the lien thereof.

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Section 10. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein: (a) all properties dedicated to and accepted by a local public authority; (b) the Common Area; and (c) all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Texas. However, 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 entered into by the Association. A copy of all such agreements shall be available to each owner. Any and all management agreements entered into by the Association shall provide that said management agreements may be cancelled by an affirmative vote of sixty percent (60%) of the votes of each class of the Members of the Association. In no event shall such management agreement be cancelled prior to the affecting by the Association or its Board of Directors of a new management agreement with a party or parties, which new management agreement will become operative immediately upon the cancellation of the preceding management agreement. It shall be the duty of the Association or its Board of Directors to effect a new management agreement prior to the expiration of any prior management contract. Any and all management agreements shall be made with a responsible party or parties having experience adequate for the management of a project of this type.

Section 12. Insurance Assessments. The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance for all the buildings, including all townhouses, unless the owners thereof have supplied proof of adequate coverage to the Board of Directors' complete satisfaction, against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard, and shall also obtain a broad form public liability policy covering all Common Area; and all damage or injury caused by the negligence of the Association or any of its agents. Said insurance may include coverage against vandalism. Premiums for all such insurance, except on the individual townhouse, shall be common expenses. All such insurance coverage, including insurance on individual townhouses obtained by the Board of Directors shall be written in the name of the Association as Trustee for each of the townhouse owners in the same proportions as their undivided interest in the Common Area. Insurance on individual townhouses obtained by such townhouse owners may be written in the name of the individual owners. Premiums for insurance obtained by the Board of Directors on individual townhouses shall not be part of the common expense but shall be an expense of the specific townhouse or townhouses so covered and a debt owed by the owners, and shall be collectible by any lawful procedure permitted by the laws of the State of Texas. In addition, if said debt is not paid within twenty (20) days after notice of such, such amount shall automatically become a lien upon such owners lot and townhouse and shall continue to be such a lien until fully paid. This lien shall be subordinate to the lien of any first mortgage and shall be enforceable in the same manner as any lien created by failure to pay the maintenance assessments. In addition to the aforesaid insurance required to be carried by the owners and/or the Association, any owner may, if he wishes, at his own expense, insure his own townhouse unit for his own benefit and carry any and all other insurance he deems advisable. It shall be the individual responsibility of each owner at his own expense to provide, as he sees fit, homeowner's liability insurance, theft, and other insurance covering personal property damage and loss. In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Association, the Board of Directors shall, with concurrence of the mortgagee, if any, 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 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 deem 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 established by Article VI, Section 1, above, to make up any deficiency for repair or rebuilding of the Common Area not a physical part of a townhouse unit. In the event such insurance proceeds exceed the cost of repair and reconstruction, such excess shall be paid over to the respective mortgagees and owners in such proportions as the Board of Directors deem fair and equitable in the light of the

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damage sustained by such townhouses. Such payments shall be made to all such owners and their mortgagees in proportion to their percentage interests. In the event of damage or destruction by fire or other casualty to any townhouse or other property covered by insurance written in the name of an individual owner, said owner shall, with concurrence of the mortgagees, if any, upon receipt of the insurance proceeds, contract to repair or rebuild such damaged or destroyed portions of the exterior of the townhouse in a good, workmanlike manner in conformance with the original plans and specifications of said townhouse. In the event such owner refuses or fails to so repair and rebuild any and all such damage to the exterior of the townhouse area within thirty (30) days, the Association, by and through its Board of Directors, is hereby irrevocably authorized by such owner to repair and rebuild any such townhouse in a good and workmanlike manner in conformance with the original plans and specifications of the townhouse. The owner shall then repay the Association in the amount actually expended for such repairs, and the Association shall have a lien securing the payment of same identical to that provided above in this Section securing the payment of insurance premiums; and subject to foreclosures as above provided.

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 Townhouse upon the Property 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 of omission shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in equal proportions.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance and repaired out of the proceeds of same, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts of omission.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, to the extent that such damage is not covered and paid by the insurance provided for herein, 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 days after written request therefor, the Board of Directors of the Association shall select an arbitrator for the refusing party.

ARTICLE VIII

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon any Lot or the patio or carport 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 therein be made 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 in harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives 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.

ARTICLE IX

EXTERIOR MAINTENANCE

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, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements. Such exterior maintenance shall not include glass surfaces or patios.

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, or invitees, and not covered or paid for by insurance on such Lot, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

ARTICLE X

USE RESTRICTIONS

Section 1. Said property is hereby restricted to residential dwellings for residential use only. All buildings or structures erected upon said Property 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 townhouse apartment buildings, being single family townhouses joined together by a common exterior roof and foundation, shall be constructed. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any portion of said Property at any time as a residence either temporary or permanently.

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

Section 3. 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 reasonable 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. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any of said Lots, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose.

Section 5. No advertising signs (except one of not more than five square feet "for rent" or "for sale" sign per parcel), 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. 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 purpose 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 whatsoever nature in doing so. No business activities of any kind whatever shall be conducted in any building 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, and of Memorial Ashford Townhouse Corporation, a non-profit corporation 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 hereinafter set forth.

Section 6. All clotheslines, equipment, garbage cans, service yards, woodpiles, or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring Townhouses and streets. All rubbish, trash, or garbage shall be regularly removed from the premises, and shall not be allowed to accumulate thereon. All clotheslines shall be confined to patio areas.

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Section 7. Except in the individual patio areas appurtenant to a Townhouse, 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 carport areas, except 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 Memorial Ashford Townhouse Apartments, and is necessary for the protection of said Owners.

Section 8. Maintenance, upkeep and repairs of any patio shall be the sole responsibility of the individual owner of the Lot appurtenant thereto and not in any manner the responsibility of the Board of Directors. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the Common Area and all exteriors and roofs of the Townhouse, including but not limited to, recreation and parking areas and walks, shall be taken by the Board of Directors or its duly delegated representative.

Section 9. All fixtures and equipment installed within a Townhouse, commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of a Townhouse, shall be maintained and kept in repair by the Owner thereof. An Owner shall do no act nor any work that will impair the structural soundness or integrity of another Townhouse or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other Townhouses or their Owners.

Section 10. Without prior written approval and the authorization of the Board of Directors, no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon 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 11. No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any Owner or Owners in favor of the other Owners.

ARTICLE XI

EASEMENTS

Section 1. Each Townhouse and the property included in the Common Area shall be subject to an easement for encroachments created by construction, setting and overhangs, as designed or constructed by the Declarant, a valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event the multi-family structure containing two or more Townhouses is partially or totally destroyed, and then rebuilt, the owners of the Townhouses so affected agree that minor encroachments of parts of the adjacent Townhouse units or Common Areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 2. There is hereby created a blanket easement upon, across, over and under all of said Property for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones and electricity, and a master television antenna system. By virtue of this easement, it shall be expressly permissible for the providing electrical and/or telephone company to erect and maintain the necessary poles and other necessary equipment on said property and to affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of said Townhouses. An easement is further granted to all police, fire protection, ambulance and all similar persons to enter upon the streets and Common Area in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and to any management company selected by the Association to enter in or to cross over the Common Area and 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 or thereafter approved by 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 shall have the right to grant such easement on said Property without conflicting with the terms hereof. The easements provided for in this Article XI shall in no way affect any other recorded easement on said premises.

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Section 3. Underground Electric Service:

A. Underground single phase electric service shall be available to 69 residential townhouses on the aforesaid 69 Lots and to the recreational building to be constructed on the Common Area, and the metering equipment shall be located on the exterior surface of the wall at a point 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.

B. For so long as such underground service is maintained, the electric service to each townhouse and the recreational building shall be uniform and exclusively of the type known as single phase, 120/240 volt, 3 wire, 60 cycle alternating current.

C. Easements for the underground service may be crossed by driveways and walkways provided the Declarant or Builder makes prior arrangements with the utility company furnishing electric service. Such easements for the underground service shall be kept clear of all other improvements, including buildings, patios, or other pavings, other than crossing walkways or driveways, 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.

Section 4. An easement is further granted upon, across, over, and under all of said property to any mortgagee or lienholder who acquires title to any Lot which is a part of the Property through foreclosure or otherwise, for the purpose of ingress, egress, construction, repairing and maintenance.

ARTICLE XII

RIGHT OF FIRST REFUSAL

Declarant hereby imposes the following condition upon each and every Lot to which these covenants are applicable: That the Association is hereby granted the right of first refusal on all proposed Lot sales except those between Declarant, its successors or assigns, and its purchasers. Said right shall be exercisable by the Board of Directors and no transfer of any Lot herein by sale, gift, conveyance, or other means of transfer except by devise and descent shall be valid without its prior approval. Any Lot Owner desiring to transfer his Lot shall, upon receipt of a bona fide offer of purchase, transmit the terms of said offer to the Board of Directors. The Board of Directors shall then have thirty (30) days within which to act upon said offer.

If the Board of Directors so chooses, it may acquire the property on the terms and conditions of the offer and, upon acceptance by the Board of Directors, the Lot Owner shall be bound to convey the Lot on said terms and conditions. If the Board of Directors should fail to act within said thirty (30) day period, it shall be conclusively presumed that the Board has declined such offer and the Lot Owner may then convey said Lot to his original offeror. The right granted herein shall extend to any and all offers received by any Lot Owner regardless of the Board of Directors' prior action or inaction on any other offer. The Board of Directors' acceptance or rejection shall be by two-thirds (2/3) vote of the members and shall be signified in writing signed by the board and notarized. Failure to submit an offer to the Board of Directors for its acceptance shall render any transfer pursuant to such offer void and the Board of Directors or any Lot Owner may institute any action necessary to allow the Board of Directors to recover said property. Notice of an offer shall be by certified mail to the Chairman of the Board of Directors and one other Board member at their last known address and no other form of communication whether verbal or written shall be valid.

ARTICLE XIII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, covenants, covenants, reservations, liens and charges now or hereinafter 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 hereinafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no wise effect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, 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

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representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be properly recorded in the Deed Records of Harris County, Texas.

Section 4. 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.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 22nd day of May, 1972.

SECRETARY'S MEMORANDUM:
The address on this instrument was filed and recorded.

ATTEST: Marye Hami
Secretary

JAMES L. GOETTEE BUILDING COMPANY

By James L. Goettee
James L. Goettee, President
James L. Goettee Building Co.

RECORDER'S MEMORANDUM:
The address on this instrument was filed and recorded.

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By their signature hereunder the lienholders hereby assent to and ratify all of the foregoing:

ATTEST: W. J. Seabrook
Secretary

CENTER SAVINGS ASSOCIATION
By Robert J. [Signature]
President

ATTEST: [Signature]
Secretary

RIDGECROFT MOTOR HOTEL, INC.
By Ray Gilliam
President

ATTEST: [Signature]
Secretary

PILGRIM REALTY COMPANY
By [Signature]
President

5/22/72 25 PM 3 08

REC'D
HARRIS COUNTY CLERK

