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THE STATE OF TEXAS)
COUNTY OF McLENNAN)

KNOW ALL MEN BY THESE PRESENTS:

RESTRICTIVE COVENANTS

Recitals:

(i) SUNN PROPERTIES, a Partnership composed of James H. Stewart and Jack M. Dunn, (hereinafter called the "Developer") is the owner of real property located in McLennan County, Texas, (hereinafter called the "Property") more particularly described as Sugar Creek Addition to the City of Woodway, McLennan County, Texas, according to the plat of said addition recorded in Volume 1297, Page 144 of the McLennan County Deed Records (which map is hereinafter called the "Plat").

(ii) The Property has been subdivided into lots as shown on the Plat.

(iii) Developer plans to develop the Property, to construct on the lots (as such term is hereinafter defined) single family residences for sale to the public, to sell the remaining lots to others for the construction of single family residences thereon, and to preserve or improve other parts of the Property for recreational purposes for the use and benefit of purchasers of the lots, the entire development being hereinafter sometimes called the "Community".

(iv) Developer plans to provide for the formation of a non-profit Texas Corporation, whose members shall be the owners of the lots, for the purpose of assuring the upkeep, maintenance, improvement and administration of the Community, including its open areas, playgrounds, parks, swimming facilities, and other recreational facilities, and all improvements now existing or hereafter erected thereon, and for the purpose of enforcing the restrictions and covenants set out herein and collecting and disbursing the assessments and charges hereinafter set forth.

NOW, THEREFORE, IT IS AGREED that the covenants and restrictions hereinafter set forth are to run with the Property for the purposes of enhancing and protecting the value and desirability of the Property and shall benefit and be binding upon the owners of any of the lots or other

lands comprising the Property, and their heirs, personal representatives, successors and assigns.

Said restrictions and covenants are as follows:

ARTICLE I

Definitions

The following words, when used in this statement of restrictions and covenants (unless the context shall so prohibit) shall have the following meanings:

A. "Association" shall mean the SUGAR CREEK HOMES ASSOCIATION, a non-profit corporation organized under the laws of the State of Texas, its successors and assigns.

B. "Board of Directors" shall mean the Board of Directors of the Sugar Creek Homes Association.

C. "Building Limit Line" shall mean the line, if any, so designated on the Plat.

D. "Common Areas" shall mean all of those areas of land so shown on any recorded subdivision map of the Property and intended to be devoted to the common use and enjoyment of the owners of the Property.

E. "Living Unit" shall mean and refer to any portion of a building situated upon the Property designed and intended for use and occupancy as a residence by a single family.

F. "Lots" shall mean those plots of land shown upon any recorded subdivision map of the Property with the exception of the Common Areas as heretofore defined.

G. "Member" shall mean any person and/or entity who owns a fee interest in a Lot.

H. "Membership" is defined in Article III.

I. "Multi-family Structure" shall mean and refer to any building containing two or more Living Units under one roof except when each such Living Unit is situated upon its own individual Lot.

J. "Owner" shall mean the record owner, whether one or more Persons, of fee simple title to any Lot, but excluding those having only a security interest in such Lot until such time as such Person (whether by foreclosure or otherwise) becomes the record Owner thereof.

K. "Person" shall mean an individual, corporation, partnership, association, trust or other legal entity or any combination thereof.

L. "Property" shall mean the real property described in Exhibit A attached hereto, and such additional real property as may be brought within the jurisdiction of and subject to the assessments of the Association by the power retained in Section 1 of Article II hereof.

M. "Public Street" shall mean any street, lane, drive, boulevard, court circle, road, place, manor or terrace which has been dedicated to public use, as shown on the Plat, but shall not include private streets, driveways, alleys and cul-de-sacs forming part of the Common Areas.

ARTICLE II

Powers In Developer

Section 1. In the event the Developer develops additional lands adjacent to the Property consistent with the purposes and objectives of the Community, such additional land may be annexed to the Property by the Developer's filing of record an amendment to these Restrictive Covenants, in which case such additional Property shall be subject to these Restrictive Covenants.

Section 2. The Developer reserves the right to make such changes in the boundaries of Lots and in the Common Areas as it deems advisable, provided that any such changes shall not adversely affect the boundaries or the beneficial use and enjoyment of any Lot then owned by Persons other than Developer.

ARTICLE III

Membership in the Association

Each Person who is the record owner of any Lot shall have one vote ("Membership") in the Association for each Lot he owns, regardless of the number of persons who hold an interest in said Lot (in other words, if two or more persons are the record owners of one Lot, then such persons are the record owners of one Lot, and such persons shall in any case own collectively, only one Membership in the Association). The foregoing is not intended to include persons who hold a vendor's lien, deed of trust lien or other security interest in a Lot, until such persons become the record Owner of such Lot. The Membership shall be appurtenant to and may not be separated from the record ownership of any Lot, and the transfer of any Membership not made as part of a transfer of a Lot shall be null and void. Ownership of a Lot shall be the sole qualification for being a Member of the Association.

ARTICLE IV

Ownership, Use and Management of Common Areas

Section 1. The Members of the Association shall have the right to use the Common Areas, subject to the restrictions set forth in the following sections of this Article.

Section 2. Each Member shall have the nonexclusive right and easement of enjoyment and use of the Common Areas; and such easement shall be appurtenant to and shall pass with the title to every Lot. Such right and easement shall be subject to the following provisions:

A. The right of the Association to make such reasonable rules and regulations regarding the use of the Common Areas and facilities located thereon by the Members and other persons entitled to such use, including but not limited to restrictions of the number of guests who may use the Common Areas and the parts of the Common Areas such guests may use.

B. The right of the Association, in accordance with its Articles of Incorporation and Bylaws, to borrow money for the purpose of improving the Common Areas and facilities and con-

structing new facilities thereon and in connection therewith to mortgage the Common Areas or portions thereof.

C. The right of the Association to suspend a Member's voting rights and right to use the Common Areas and facilities thereon (i) for any period during which any assessment against his Lot remains unpaid, or (ii) for a period not to exceed thirty (30) days because of an infraction of the Association's published rules and regulations by a Member, his family or guests.

D. The right of the Association with the permission of Developer to dedicate or transfer all or part of the Common Areas to any public agency or authority or individual on such terms and subject to such conditions as the Board of Directors of the Association may determine in accordance with the Bylaws of the Association.

E. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated on the Common Areas.

Section 3. The right of use and enjoyment of the Common Areas shall not commence to any Owner, his family or guests, until such Owner commences paying assessments pursuant to Article VI.

Section 4. Any Member may delegate, subject to and in accordance with such reasonable rules and regulations as the Association may promulgate from time to time, his right to use and enjoyment of the Common Areas and facilities thereon to the members of his immediate family (that is, spouse, children, grandchildren and parents), his tenants or contract purchasers who reside on the Property and the number of guests permitted by such rules.

Section 5. The Developer may convey the Common Areas to the Association at any time; however, not later than such time as 65% of the Lots have been initially sold and conveyed by the Developer, or the construction of the initial improvements on the Common Areas has been completed, whichever occurs later, the Developer shall convey the Common Areas to the Association, which shall thereafter be responsible for the maintenance and

operation of the Common Areas. Until the Common Areas are conveyed to the Association, the Developer shall have the exclusive use and control thereof, except that the Owners shall have the reasonable right of access over and along the portions of the Common Areas serving as driveways, sidewalks or parking areas.

Section 6. At such time as the Association becomes the owner of the Common Areas, the Association shall control, maintain, manage and improve the Common Areas as provided in these Restrictive Covenants and in its Articles of Incorporation and Bylaws. Such right of control and management shall be exclusive except as provided herein.

ARTICLE V

Temporary Administration and Voting Rights

Section 1. Until such time as Developer has sold and conveyed sixty-five percent (65%) of the Lots as hereinabove defined and described, or the expiration of sixty (60) months after the date this Declaration is filed for record, whichever occurs first, Developer shall have the right, but shall not have the duty, to act as the sole administrator for the government and administration of the affairs of the Association, and during such period of temporary administration, Developer shall have the right to exclusively exercise and perform all those rights, powers, authority, functions and duties of the Association if the Developer shall elect to exercise or perform all and any of the same.

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

- (1) Class A. Class A members shall be all of those Owners, as defined in Article I hereof, with the exception of the Developer. Class A members shall be entitled to one vote for each Lot or Living Unit in which they hold the interests required for membership. When more than one Person holds such interest or interests in any Lot or Living Unit, all such Persons shall be Members, and the vote for such Lot or Living Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot or Living Unit.

(2) Class B. Class B member shall be the Developer. The Class B member shall be entitled to three votes for each Lot in which he holds the interest required for Membership by Article III hereof, and for every Living Unit in any Multi-family Structure owned by him until such unit is first sold or leased, provided that the Class B membership shall cease and become converted to a Class A membership on the happening of the earlier of any of the following events, but neither ^{of} the following shall affect the provisions of Article III hereof.

(a) When the total votes outstanding in Class A membership are equal to the total votes outstanding in the Class B membership; or

(b) On December 31, 1988.

From and after the happening of the earlier of these events, the Class B member shall be deemed to be a Class A member entitled to one vote for each Lot in which he holds the interest required for Membership under Article III. For purpose of determining the votes allowed under this Section, when Living Units are counted, the Lot or Lots upon which such Living Units are situated shall not be counted.

ARTICLE VI

Covenant for Maintenance of Assessments

Section 1. The Owner of each Lot and Living Unit (other than the Developer) by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay the Association: (1) Monthly 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 Monthly and Special Assessments, together with any interest thereon and costs of collection thereof as hereinafter provided, allocable to each Lot or Living Unit, shall be a charge on such Lot or Living Unit and shall be a continuing lien upon the Lot or Living Unit against which each such assessment is made until paid in full, but such lien shall be inferior to

any prior recorded, valid, first-lien deed of trust and/or vendor's lien. The obligation to pay Monthly and Special Assessments, being part of the purchase price of all Lots and Living Units, such assessment lien shall be superior and paramount to any homestead or other exemption provided by law. Each such assessment, together with such interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot or Living Unit at the time when the assessment or charge fell due. Such personal obligation shall not pass to his successors in title unless expressly assumed by them; but, nevertheless, the lien above mentioned arising by reason of such assessment shall continue to be a charge and lien upon the Lot or Living Unit above provided. Each Owner agrees that he will upon request of the Association, execute and deliver to the Association a deed of trust in recordable form, covering the Lot or Living Unit owned by him, subject only to a prior recorded, valid first-lien deed of trust and-or vendor's lien, to secure such assessment lien. In any event, such lien for non-payment of assessments or charges may be enforced by the Association, such sale to be conducted in accordance with the provisions of law applicable to the exercising of powers of sale or foreclosure in deeds of trust or in any manner permitted by law. In any such foreclosure or sale, the Owner shall be required to pay the costs and expenses of such sale and other proceedings, including reasonable attorneys' fees.

Section 2. All assessments levied and collected by the Association shall be used exclusively for the purposes of promoting the recreation, health, safety and welfare of the members of the Association and of promoting the use and enjoyment thereof by the Owners of the Lots and Living Units or securing for its members, the use of facilities not on the Common Areas by purchase or participation with or as part of another entity. Without limiting the generality of the foregoing, the Association shall perform or cause to be performed the following duties:

- A. Effecting repairs, replacements and additions to the Common Areas and facilities thereon;

B. Paying ad valorem and other property taxes and assessments levied thereon;

C. Contracting for such employees and other management necessary or appropriate to the operation and maintenance of the Common Areas and supervision thereof; specifically, the Association may contract with any person or entity for the performance of all or any portion of the duties of the Association provided herein;

D. Obtaining utility services for the Common Areas;

E. Obtaining general public liability insurance with coverage of not less than 100/300/50 and sufficient property damage and fire and extended coverage insurance such that the proceeds would be sufficient to replace any permanent facilities constructed on the Common Areas;

F. Paying dues to another entity which may be responsible for the operation of facilities for the use of members of the Association among others.

Section 3.

A. Until the year beginning 1979, the maximum Monthly Assessments on each Lot or Living Unit, belonging to a member other than the Developer, shall be \$35.00, said assessment to begin on the first day of the month following the date of purchase or January 1, 1979, whichever is later.

B. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Monthly Assessment may be increased each year, without a vote of the Membership, not more than five percent (5%) above the maximum Monthly Assessment for the previous year.

C. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Monthly Assessment may be increased above the five percent (5%) set out in B above by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

D. The Board of Directors of the Association may, after consideration of current maintenance costs and further needs of the Association, fix the Monthly Assessment for any year at a lesser amount.

E. The failure of the Association to fix the Monthly Assessments as provided herein for any year shall not be deemed a waiver or a release of any Owner from the obligation to pay the Monthly Assessment, but the Monthly Assessment fixed for the preceding year shall continue until a new assessment is fixed. For the purpose of figuring the amount of the assessment where a single-family residential unit is constructed on more than one Lot, or more than one Lot is being prepared for such construction (as such Lots are shown by recorded plat), then and in that event, such unit shall be, for the purposes of assessment, considered as one Lot, and the Owner of such Unit shall not be entitled to more than one vote.

Section 4. In addition to the Monthly Assessments authorized by Section 3 hereof, the Association may levy, in any assessment year, a Special Assessment, applicable to that year only, for the following purposes:

A. Defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto; provided that any such assessment shall have the assent of at least 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 at least fifteen days (15) in advance setting forth the purpose of the meeting.

B. Exercising the option created by Section 2(e) of Article IV of this statement.

C. Paying for repairs pursuant to Section 4 of Article VIII.

Section 5. The due date for the payment of any Special Assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Section 6. The quorum required for any action authorized by Section 4 hereof shall be as follows: At the first meeting called, as provided in Section 4, the presence at the meeting of 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 in Section 4 hereof, and the required quorum at any subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. The Association shall upon request of an Owner at any time furnish a certificate in writing signed by an officer of the Association setting forth whether or not the assessment on the Lot or Living Unit owned by such Owner has been paid. A reasonable charge may be made by the Association for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Any assessment which is not paid within ten (10) days after due shall be delinquent and shall bear interest from the due date thereof at the rate of ten per cent (10%) per annum. The Association shall be entitled to bring an action at law against the Owner personally obligated to pay same, and/or to foreclose the lien against the Lot or Living Unit, and interest, costs and reasonable attorneys' fees for such action shall be added to the amount of such assessment and be part of the lien against the Lot or Living Unit. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot or Living Unit.

Section 9. All assessments by the Association shall be pro rata and the assessment made against any Lot or Living Unit shall in no case be higher or lower than the assessment against any other Lot or Living Unit, except for any Special Assessments allowed pursuant to Section 4 of Article VI of this statement which are properly attributable, in the judgment of the Association, to less than all of the Lots or Living Units.

Section 10. No diminution or abatement of assessments shall be allowed or claimed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Areas or from any action taken to comply with any law, ordinance or order of a governmental authority.

Section 11. The following property subject to this Declaration shall be exempted from the assessments, charge and lien created herein:

A. All properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;

B. All Common Properties as defined in Article I, Section 1, hereof;

C. All properties exempted from taxation by the laws of the State of Texas upon the terms and to the extent of such legal exemption.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

ARTICLE VII

Restrictions on Lots

Section 1. The Owner of any Lot shall not use or allow the use of such Lot or any building or structure thereon for any purpose which will be noxious, offensive or detrimental to the use of the other Lots or which will create or emit any objectionable, offensive or noxious odors, dust, gases, fumes or other such material or which will in any manner violate any zoning or other regulations or laws of the City of Woodway, of the State of Texas, or of the United States.

Section 2. No Lot shall be used for other than single-family residential purposes. No Lot may be used as an apartment house, double house, flat, lodging house, hotel, or for any business purposes; provided that a portion of a residence may be used as living quarters for servants engaged on the premises.

Section 3. No drilling or puncturing of the surface for oil, gas or other minerals or hydrocarbons or water or any other fluid or substance shall be permitted.

Section 4. The keeping of any poultry, cattle, horses or other livestock of any kind or character is prohibited on any Lot, except dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for any commercial purpose.

Section 5. The storage of trash, ashes, or other refuse except in normal receptacles is prohibited, nor may weeds, underbrush or other unsightly growths be permitted to grow or remain on a Lot. No trash, ashes or other refuse may be thrown in any vacant land.

Section 6. No signs or billboards shall be permitted on any Lot or Common Property, except one sign, not to exceed two feet (2') square, may be used to advertise the sale or rental of the property.

Section 7. On all Lots, all clotheslines or drying yards, equipment, coolers, woodpiles or storage piles shall be so located as not to be visible from the Common Areas, any other Lot or any road or street.

Section 8. No elevated tanks of any kind shall be erected, placed or permitted on any Lot.

Section 9. No television or radio antennae shall be erected or maintained on the front of any dwelling nor shall they be placed upon the roof of any dwelling so as to stand or be supported by that portion of the roof which slopes toward the front property line. No radio, aerial or guide wires for antennae shall be maintained on any portion of a lot forward of the front building line of said Lot. No radio signals, television signals,

or any other form of electromagnetic radiation shall originate from any Lot which may unreasonably interfere with the reception of television or radio signals of any other Lot.

Section 10. No Lot shall be subdivided.

Section 11. There shall be no obstruction to or construction on the Common Areas, without the prior written approval of the Association.

Section 12. Nothing shall be done on any Lot or on the Common Areas which will result in the increase of fire or casualty insurance premiums or the cancellation of such insurance coverage on the Common Areas. No waste shall be committed on any Lot or the Common Areas.

Section 13. No house trailer, truck body, basement, tent, shack, garage, barn or other out building shall be used at any time as a residence; nor shall any residence of any temporary character be permitted; nor shall any structure be moved onto any residential Lot.

Section 14. All yards of a dwelling shall be maintained so as to be an aesthetical asset to the dwelling and no Owner of any Lot either vacant or improved, shall permit such Lot to go unmaintained, and no weeds or grass shall be permitted upon any in excess of twelve (12) inches high.

Section 15. No garbage cans or refuse containers shall be placed or permitted to remain at the front of a dwelling either within the street or upon the Lot or on Common Areas, except upon those days scheduled for garbage and refuse collection by the City of Waco or a private collector. Except on days of collection, as set out above, cans or containers will be kept in a place not subject to public view.

Section 16. No mobile home, trailer of any kind, truck, truck camper, permanent tent or similar structure, boat or inoperable motor vehicle of any type shall be kept upon a Lot unless it is concealed from public view nor can they be kept upon the Common Property, or any dedicated street within the Properties. In addition, no motor vehicle of any type, whether operable or inoperable, may be constructed, re-constructed,

repaired or stored upon a Lot unless it is concealed from public view nor can they be constructed, re-constructed, repaired or stored upon the Common Property, or any dedicated street within the Property.

Section 17. No garage may be used by other than the Owner of a Lot on which the garage is situated or his family or bona fide guest and all garage doors shall be closed at all times except as may be necessary for entry and exit of vehicles and persons.

ARTICLE VIII

General Obligations of Owner

Section 1. Each Owner shall at his expense keep any buildings and other improvements on his Lot in good repair and condition and in a clean and sanitary condition and shall do all redecorating, painting and varnishing which may from time to time be necessary to maintain the good appearance and condition thereof. Each Owner shall maintain and care for all trees, plants or foliage on his Lot and otherwise keep his Lot in conformity to its condition when new.

Section 2. If any Owner believes any other Owner is in violation of these Restrictive Covenants, he may so notify such Owner in writing, explaining his reasons for such complaint. If the Owner fails to remedy the alleged violation in ten (10) days after delivery of such notice, a complaint may be transmitted in writing to the Chairman of the Board of Directors of the Association, who shall thereupon choose, within not more than ten (10) days, a neutral party to arbitrate the dispute in such a manner as the latter deems best, but he shall in all cases announce his decision within thirty (30) days after the transmittal of the complaint to the Chairman of the Board of Directors of the Association. If the Chairman of the Board of Directors or the arbitrator fails to act, the complaint will be considered denied. The arbitrator shall be paid his reasonable expenses, the cost of which shall be borne by the losing party.

Section 3. If the Association believes any Owner is in violation of these Restrictive Covenants, it shall so notify such Owner in writing, explaining its reason for such complaint. If the Owner fails to remedy the alleged violation within ten (10) days following delivery of such notice, then the Association shall have the right to (i) institute appropriate legal action or (ii) submit the dispute to arbitration, such arbitration to be held in accordance with the rules of the American Arbitration Association by the action of a majority or arbitrators chosen as follows: (a) one arbitrator shall be chosen by the Owner; (b) one arbitrator shall be chosen by the Association; (c) one arbitrator shall be chosen by the two (2) arbitrators previously chosen. If either party fails to choose an arbitrator within fifteen (15) days after the transmission of the complaint to the Owner, the other party may choose the second arbitrator. The decision of the arbitrators shall be made within thirty (30) days after the transmission of the complaint to the Owner. If the arbitrators fail to act within ninety (90) days, the complaint will be considered dismissed. The prevailing party in any such litigation or arbitration shall be entitled to recover from the other party all costs and expenses, including attorney's fees, in connection therewith.

Section 4. If a court or arbitrator(s) as provided in Section 2 or Section 3 above upholds the complaint, the Owner shall be so notified in writing and shall promptly remedy the violation of these Restrictive Covenants, and if he fails to remedy such violation within thirty (30) days after the date of such notice or in the time specified in any such proceeding, as appropriate, the Association may (but shall not be obligated to) make the appropriate repairs and add the cost of such repairs, as a Special Assessment, to the normal assessment of such Owner. The Association, and its designees, shall have the right of entry upon the Lot owned by such owner for such purposes.

ARTICLE IX

Construction of Improvements

Since the maintenance of architectural unity is essential for the preservation and enhancement of the value of the Lots, no improvements may be erected on any Lot by anyone other than the Developer without the approval of the Architectural Committee (as such term is defined in Article XII hereof) appointed by the Association. The term "improvements" shall include but shall not be limited to the erection of any structure, including but not limited to, additions to or alterations of any buildings, detached buildings, storage buildings, tool sheds, kennels, or other buildings for the care of animals, and greenhouses; the erection of any fence; the moving of any structure from another locality to a Lot; the grading, scraping, excavation or other rearranging of the surface of any Lot; the construction of any driveway, alleyway, walkway, entryway, patio or other similar item; the planting of trees, foliage or other landscaping items, either natural or man-made; and the alteration or replacing of any exterior surface, including the repainting of any painted surfaces and the painting of formerly unpainted surfaces by any but materials of the type originally used and which are the same or similar in color and design.

ARTICLE X

Easements and Rights

Section 1. The Developer in constructing single-family residences and associated accouterments on the Lots may place certain portions of such residences and accouterments consisting primarily of (but not limited to) air conditioning equipment, fences, walls, walkways and patios on the Common Areas, and any subsequent Owner of such residence shall have an easement for and the right to maintain on the Common Area any of the same so constructed.

Section 2. If the Owner (including the Developer) of any Lot must, in order to make reasonable repairs or improvements to a building on his Lot, enter or cross the Common Areas or a Lot of another Owner,

such Owner shall have an easement to do so; provided that said Owner shall use the most direct, feasible route in entering and crossing over such an area and shall restore the Lot so entered or crossed to its original condition at the expense of said Owner. Notwithstanding the foregoing, an easement shall not exist on the land of any other Lot Owner if the purpose for the entrance or crossing is one requiring, by virtue of Article X of this statement, approval of the Architectural Committee of the Association, unless such purpose is approved by the Committee.

Section 3. If the Owner (including the Developer) of any Lot, must in order to make reasonable repairs or improvements to a building on such Lot, alter the building of any other person, said Owner shall have the right to do so; provided that said Owner shall (i) create as little alteration as possible consistent with good building and engineering practices, (ii) promptly restore the building altered to its original condition at the expense of said Owner, and (iii) provide such bonding as the Owner of the building to be altered shall reasonably require; and further provided such alteration shall not be allowed if the purpose for the alteration is one requiring, by virtue of Article X of this statement, approval of the Architectural Committee of the Association, unless such approval is obtained.

Section 4. If any structure erected or re-constructed by Developer or by an Owner with approval of the Architectural Committee shall encroach on the land of an adjoining Owner, the latter specifically grants to such Owner an easement permitting the persistence of such encroachment. In addition, an overhang easement is granted to any Owner whose eaves, gutters or similar items overhang a reasonable distance or abut the Lot of another Owner.

Section 5. In the case of some of the homes constructed on the Lots, the Developer has built or may build houses adjoining each other by a party wall located on or near the boundary line of two Lots. The wall or other structure separating such houses shall be and remain a party wall and shall be subject to the following:

A. Each Owner of a house having a party wall covenants to do nothing to disturb the integrity and support provided by the wall or other structure. Any Owner (or person for whom an Owner is responsible) causing any such damage or injury shall be liable for the restoration thereof and for any other costs or expenses incurred in connection therewith.

B. If such damage or injury is caused by neither of such Owners or persons for whom they are responsible, then the restoration and other costs and expenses shall be borne equally by both such Owners. Further, 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.

C. The cost of reasonable repair and maintenance of a party wall shall be shared by both Owners.

D. This section shall apply whether the party wall be located exactly on the boundary line between the adjoining Lots or merely in near proximity to the boundary.

Section 6. Each Owner of a Lot covenants to provide such easements for drainage and waterflow as the contours of the land and the arrangement of buildings thereon by Developer or another Owner may require.

ARTICLE XI

Deviations

The Association may grant approval for deviations from the restrictions provided in Article VII, hereof, so long as such deviations are generally consistent and harmonious with the remainder of the community and do not adversely affect the value of another Lot. Such approval shall require the affirmative vote of holders of two-thirds (2/3) of the Memberships voting at a meeting duly called for this purpose, written notice of which shall be delivered to all Members not less than ten (10) days nor more than fifty (50) days before the date of the meeting, setting forth the purposes of the meeting.

ARTICLE XII

Architectural Committee

The Board of Directors of the Association shall appoint an Architectural Committee composed of at most three (3) Owners to approve improvements proposed to be made by any Owner other than the Developer. The Committee shall meet within fifteen (15) days after an Owner has made application to it for approval, submitting at that time two (2) sets of plans and specifications. The Committee shall render its decision within thirty (30) days after said meeting, either approving the plans or disapproving them, and in the latter case making specific reference to those features which caused the disapproval. Approval may be conditioned upon completion within a specified period of time. All decisions shall be made by a majority vote of the Committee. A failure of the Committee to act will result in the project being considered approved.

ARTICLE XIII

Liability of Board of Directors and Officers

The members of the Board of Directors and officers of the Association shall not be liable to any Owner or any person claiming by

or through any Owner for any act or omission of such Director or officer in the performance of his duties except if such act or omission shall involve gross negligence, bad faith or reckless disregard of his duties, and the Association shall have the power to indemnify all such Directors and officers from all claims, demands, actions and proceedings and any expenses in connection therewith, except if such Director or officer be judicially declared to have acted in a grossly negligent manner, with bad faith, or in reckless disregard of his duties.

ARTICLE XIV

Right to Enforce

The restrictions herein set forth shall run with the land and bind the present Owner except as otherwise provided, its successors and assigns, and all parties claiming by, through or under it, shall be taken to hold, agree and covenant with the Owner of said land, its or their heirs, personal representatives, successors and assigns, and with each of them, to conform to and observe said restrictions as to the use of said Lots and the construction of improvements thereon. No restriction herein set forth shall be personally binding on any Person except in respect to breaches committed during his ownership of title to his Lot. Any Owner or Owners of any Lot shall have the right to sue for and obtain an injunction to prevent the breach of or to enforce the observance of the restrictions above set forth in addition to the ordinary legal action for damages. Failure of any Owner or Owners or the Association to enforce any of the restrictions herein set forth shall in no event be deemed a waiver of the right to do so or to enforce other restrictions.

ARTICLE XV

Right to Assign

The Developer may, by appropriate instrument, assign or convey to any Person any or all of the rights, reservations, easements, and privileges herein reserved by the Developer, and upon such assignment or conveyance being made, its assigns or grantees may, at their option, exercise, transfer or assign such rights, reservations, easements and privileges or any one or more of them at any time or times in the same way and manner as those directly reserved by them or it in the instrument.

ARTICLE XVI

Invalidation

The invalidation of any of the restrictions herein set forth shall in no event affect any of the other restrictions in this statement.

ARTICLE XVII

Duration

All of the restrictions set forth herein shall continue and be binding for a period of twenty (20) years from the date of this instrument and shall automatically be extended thereafter for successive periods of ten (10) years; provided, however, that the Owners of two-thirds (2/3) of the Lots or Living Units may, at the end of such twenty (20) year term or at the end of any successive ten (10) year period thereafter, by a written instrument signed by all of such Persons, vacate or modify all or any part of these Restrictive Covenants. Any such vacation or modification shall be filed of record in the McLennan County Deed Records promptly after execution. No amendment to these Restrictive Covenants shall impair or otherwise affect the rights of the holder of any prior, recorded deed of trust covering any Lot or the Common Areas unless such holder joins in such amendment. For purposes of meeting the two-thirds (2/3) requirement, when Living Units are counted, the Lot or Lots upon which the Living Units are situated shall not be counted.

ARTICLE XVIII

Notices

All notices given or required to be given by the Association to its Members shall be deemed to have actually been given if actually received and, whether or not actually received, when deposited in the United States mail, postage prepaid and addressed to the Member at his address as it appears on the books of the Association, and shall be deemed given when mailed.

EXECUTED this the 7th day of September, A. D., 1978.

SUNN PROPERTIES, a Partnership

By: 

James H. Stewart

By: 

Jack M. Dunn

THE STATE OF TEXAS |
COUNTY OF McLENNAN |

BEFORE ME, the undersigned authority, a Notary Public in and for McLennan County, Texas, on this day personally appeared Jack M. Dunn and James H. Stewart, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 7th day of September, A. D., 1978.



Patricia Lee
Notary Public, McLennan County, Texas
My Commission expires 11-30-78

Filed for Record on the 28 day of February A.D.1979 at 11⁰⁰ o'clock AM.,
Duly Recorded this the 28 day of February A.D.1979 at 2²⁵ o'clock PM.

FRANK DENNY, County Clerk
McLennan County, Texas

By Carolynn Hunt Deputy