

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. "Association" shall mean and refer to SOUTHDOWN COMMUNITY ASSOCIATION INC., its successors and assigns. The Association has the power to collect and disburse those maintenance assessments as described in Article IV.

Section 2. "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 Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to: (a) that certain real property first hereinabove described, and (b) such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of property designated hereon as "Reserves" or "Common Area", if any.

Section 5. "Common Area" shall mean all real property together with the improvements thereon owned by the Association for the common use and benefit of the Owners.

Section 6. "Declarant" shall mean and refer to Homecraft Land Development, Inc., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development. For the purpose of this Declaration, "developed Lot" shall mean a Lot with the street on which it faces opened and improved with utilities installed and ready to furnish utility service to such Lot, and an "undeveloped Lot" is any Lot which is not a developed Lot.

ARTICLE II

USE RESTRICTIONS

Section 1. Single Family Residential Construction. No building shall be erected, altered or permitted to remain on any Lot other than one detached single-family residential dwelling not to exceed two and one-half (2-1/2) stories in height, which may have a private garage or carport for not more than three (3) cars and bona fide servants' quarters which structures shall not exceed the main dwelling in height and which structure may be occupied only by a member of the family occupying the main residence on the building site or by domestic servants employed on the premises and no room(s) in the dwelling and no space in any other structure shall be let or rented. This shall not

preclude the main residential structure from being leased or rented in its entirety as a single residence to one family or person.

Section 2. Architectural Control. No buildings or improvements of any character shall be erected or placed or the erection thereof begun, or changes made in the design thereof after original construction, on any Lot until the construction plans and specifications and a plan showing the location of the structure or improvements have been submitted to and approved in writing by the Architectural Control Committee, or its duly authorized representative, as to compliance with these restrictions, quality of material, harmony of external design with existing and proposed structures and as to location with respect to topography and finish grade elevation. The initial members of the Architectural Control Committee shall be Ray Woodruff, Ron Noska and Jack Scoggins. If there exists at any time one or more vacancies in the Architectural Control Committee, the remaining member or members of such Committee may designate successor member(s) to fill such vacancy or vacancies provided that Declarant may from time to time, without liability of any character for so doing, remove and replace any such member of the Architectural Control Committee as it may in its sole discretion determine. The Declarant, Architectural Control

Committee and the individual members thereof shall not be liable for any act or omission in performing or purporting to perform the functions delegated hereunder. In the event the Committee fails to indicate its approval or disapproval within thirty (30) days after the receipt of the required documents, approval will not be required and the related covenants set out herein shall be deemed to have been fully satisfied. Declarant hereby retains its rights to assign the duties, powers and responsibilities of the Architectural Control Committee to SOUTHDOWN COMMUNITY ASSOCIATION, INC., when one hundred percent (100%) of all Lots in SOUTHDOWN, Section Three (3) and all subsequent sections of SOUTHDOWN are occupied by residents, and the term "Architectural Control Committee" herein shall include the Association, as such assignee. The approval or lack of disapproval by the Architectural Control Committee shall not be deemed to constitute any warranty or representation by such Committee including, without limitation, any warranty relating to fitness, design or adequacy of the proposed construction or compliance with applicable statutes, codes and regulations. Anything contained in this Paragraph 2 or elsewhere in this Declaration to the contrary notwithstanding, the Architectural Control Committee, and its duly authorized representative, is hereby authorized and empowered, at its sole and absolute discretion, to

make and permit reasonable modifications of and deviations from any of the requirements of this Declaration relating to the type, kind, quantity or quality of the building materials to be used in the construction of any building or improvement on any subdivision Lot and of the size and location of any such building or improvement when, in the sole and final judgment and opinion of the Committee, or its duly authorized representative, such modifications and deviations in such improvements will be in harmony with existing structures and will not materially detract from the aesthetic appearance of the subdivision and its improvements as a whole.

The Architectural Control Committee may require the submission to it of such documents and items (including as examples, but without limitation, written request for and description of the variances requested, plans, specifications, plot plans and samples of materials) as it shall deem appropriate, in connection with its consideration of request for a variance. If the Architectural Control Committee shall approve such request for a variance, the Architectural Control Committee may evidence such approval, and grant its permission for such variance, only by written instrument, addressed to the Owner of the Lot(s) relative to which such variance has been requested, describing the applicable restrictive covenant(s) and the

particular variance requested, expressing the decision of the Architectural Control Committee to permit the variance, describing (when applicable) the conditions on which the variance has been approved (including as examples, but without limitation, the type of alternate materials to be permitted, and alternate fence height approved or specifying the location, plans and specifications applicable to an approved out building), and signed by a majority of the then members of the Architectural Control Committee (or by the Committee's duly authorized representative). Any request for a variance shall be deemed to have been disapproved for the purposes hereof in the event of either (a) written notice of disapproval from the Architectural Control Committee; or (b) failure by the Architectural Control Committee to respond to the request for variance. In the event the Architectural Control Committee or any successor to the authority thereof shall not then be functioning and/or the term of the Architectural Control Committee shall have expired and the Board of Directors of the Association shall not have succeeded to the authority thereof as herein provided, no variances from the covenants of this Declaration shall be permitted it being the intention of Declarant that no variances be available except at the discretion of the Architectural Control Committee, or if it shall have succeeded to the authority of the Architectural

Control Committee in the manner provided herein, the Board of Directors of the Association. The Architectural Control Committee shall have the authority to approve any variance except as expressly prohibited in this Declaration.

Section 3. Minimum Square Footage Within Improvements. The living area on the ground floor of the main residential structure (exclusive of porches and garages) shall be not less than Eight Hundred (800) square feet, nor less than Four Hundred (400) square feet for a dwelling of more than one story. The total square feet for a multi-story dwelling shall not be less than One Thousand (1,000) square feet.

Section 4. Location of the Improvements Upon the Lot.

A. No building or other improvements shall be located on any Lot nearer to the front line or nearer to the street sideline than the minimum building setback line shown on the recorded plat. No building shall be located on any lot nearer than ten (10) feet to any side street line. Subject to Paragraph B of this Section, no building shall be located nearer than six feet to any interior lot line, except that a detached garage or other permitted accessory building may be located within three (3) feet of an interior lot line.

B. "Zero Lot Line Detached". Further, improvements may be constructed so as to have one outside wall abutting the side

property line designated as the "zero setback line" for that Lot, except in the case of corner lots or unless a different layout is authorized in writing by the Architectural Control Committee. Corner lots may have a "zero setback line" opposite the side street. To provide for uniformity and proper utilization of the building area within the Lots, dwellings or appurtenant structures on a Lot shall not be less than six (6) feet from the dwelling or appurtenant structure on any contiguous Lot(s). No window, doors or other openings may be placed in the wall built on or parallel to the zero setback line unless the wall is a minimum of three (3) feet from the zero setback line except that walls on the zero setback line may have openings if such wall faces onto a reserve or easement.

The side wall of the dwelling or appurtenant structure built on the zero setback line shall be constructed using permanent low-maintenance material consisting of masonry with brick-face exterior or similar material as approved by the Architectural Control Committee, and such walls shall satisfy the Local Authority Building Code as to fire resistance. The Owner of any adjacent Lot shall not attach anything to a side wall or fence located upon the zero setback line; nor shall the Owner of any adjacent Lot alter in any manner, i.e. structure, color, material or otherwise, a side wall or fence located upon the zero setback

line without the written approval of the Architectural Control Committee.

C. "Zero Lot Line - Attached". Upon prior written approval of the Architectural Control Committee, improvements may be constructed on two adjoining lots each abutting the common "zero lot line". The two owners of each building shall be responsible for the maintenance of the exterior of their building. No change of paint, brick or roof color will be permitted without approval by the Architectural Control Committee. No maintenance, repairs or painting shall be done by one owner without the consent of the other owner. Each owner (unit) shall have one vote in all matters of exterior maintenance, repairs and painting, and the cost of these repairs. If the two owners (units) cannot agree on the maintenance, repairs, and painting then the owner (unit) that deems that the work needs to be accomplished shall prepare a written description and cost of the work to be accomplished and submit same to the Architectural Control Committee. The Architectural Control Committee shall rule on the need for accomplishing the work and shall set the time frame to accomplish the work if the work is required. Their ruling shall be binding on both owners. In the event an owner of any lot in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the

Board of Directors of the Association the Board of Directors, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, within sixty (60) days of the written notification to said owner, through the Association's agents and employees, to enter upon said lot and to repair, maintain, and restore the lot and the exterior of the buildings and any other 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.

Each wall and roof which is built as a part of the original construction of the zero lot line attached building upon the Properties and placed on the dividing line between the lots shall constitute a common wall and roof, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding common walls and roofs and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Sharing of Repair and Maintenance: The cost of reasonable repair and maintenance of a common wall or roof shall be shared by the Owners who make use of the wall and roof equally. Destruction by Fire or Other Casualty. If a party wall or roof is destroyed or damaged by fire or other casualty, any owner who has used the wall or roof may restore it, and if the other owner thereafter makes use of the wall or roof, he

shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omission. In addition, for attached zero lot line buildings, the total exterior of both properties must be completely restored to their original condition before the destruction that resulted from fire or other casualty.

Weatherproofing. Notwithstanding any other provisions of this Article, an owner who, by his negligence or willful act, causes the common wall or roof to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

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

Arbitration. In the event of any dispute arising concerning a common wall or roof, or under the provisions of this Section, the Architectural Control Committee, as set forth under Article IV herein, shall have full and complete authority in handling said dispute and the decision of the Architectural Control Committee shall be final. The decision of the Architectural Control Committee must be rendered on or before sixty (60) days following written notification to the

Architectural Control Committee by one or both property owners involved.

At no place within SOUTHDOWN, Section Three (3) shall more than one (1) of the above described residence placement methods be on one (1) side of a street between two (2) corner lots or within a cul-de-sac without the prior written consent of the Architectural Control Committee.

No electrical lines or plumbing shall be placed into the common wall between the attached residences (being the wall situated on the lot line) which connect or serve both residences, provided, however, that electrical outlets may be located on said wall provided they service the residence in which they open.

Section 5. A. Composite Building Site. Any Owner of one or more adjoining Lots (or portions thereof) may consolidate such Lots or portions into one single-family residence building site, with the privilege of placing or constructing improvements on such site, in which case setback lines shall be measured from the resulting side property lines rather than from the lot lines shown on the recorded plat. Any such proposed composite building site(s) must be approved by the Architectural Control Committee.

B. Resubdivision of Lots. No Lot shall be resubdivided, nor shall any building be erected or placed on any such resubdivided Lot, unless each building site resulting from such resubdivision shall have a minimum width of not less than forty (40) feet at the front building line; provided, however, that nothing contained herein shall be construed to prohibit the resubdivision of any Lot or Lots within the Properties by the Owner thereof prior to construction of residence(s) thereon if such resubdivision results in each resubdivided Lot or building site having the minimum Lot width aforesaid. Any such resubdivision must be approved by the Architectural Control Committee. Declarant shall have the right, but shall never be obligated, to resubdivide into lots, by recorded plat or in any other lawful manner, all or any part of the property contained within the outer boundaries of the subdivision plat, and such lots, as replated shall be subject to these restrictions as if such lots were originally included herein. Any such replat must comply with all local, state, FHA and VA replatting ordinances, statutes, regulations and requirements.

Section 6. Easements. Easements for installation and maintenance of utilities are reserved as shown and provided for on the recorded plat and no structure of any kind shall be erected upon any of said easements. Neither Declarant nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents,

employees or servants to shrubbery, trees, flowers or improvements of the owner located on the land within or affected by said easements.

Further as to Lots and the Common Area adjoining Lots with improvements situated thereon, the zero setback line shall be subject to a three (3) foot access easement for the construction, repair and maintenance of improvements located upon any adjacent Lot where said improvements are located on the "zero setback line" of the adjacent Lot. The zero setback line owner must replace any fencing, landscaping or other items on the adjoining Lot that he may disturb during such construction, repair or maintenance. Additionally, this easement, when used, must be left clean and unobstructed unless the easement is actively being utilized and any items removed must be replaced. Except in the event of an emergency, the zero setback line owner must notify the Owner of the adjacent Lot of his intent to do any construction or maintenance upon the zero setback line wall at least twenty-four (24) hours before any work is started, with the hours that such access easement may be utilized being restricted to between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, and 9:00 a.m. to 6:00 p.m. on Saturdays. In the event of emergency, no such notice is necessary.

Section 7. Prohibition of Trade and Offensive Activities.

No activity, whether for profit or not, shall be carried on on any Lot which is not related to single family residential purposes. No noxious or offensive activity of any sort shall be permitted nor shall anything be done on any Lot which may be or become an annoyance or a nuisance to the neighborhood.

Section 8. Use of Temporary Structures. No structures of a temporary character, mobile home, camper, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence. Portable buildings used for accessory or storage purposes shall be limited to not more than eight (8) feet in height and one hundred twenty (120) square feet of floor space and shall be subject to approval of the Architectural Control Committee. Temporary structures may be used as building offices and for related purposes during the construction period. Such structures shall be inconspicuous and sightly and shall be removed immediately after completion of construction and shall be subject to approval of the Architectural Control Committee.

Section 9. Storage of Automobiles, Boats, Trailers and Other Vehicles. No boat trailer, boats, travel trailers, inoperative automobiles, campers, or vehicles of any kind shall be semi-permanently or permanently stored in the public street

right-of-way or forward of the front building line. Storage of such items and vehicles must be screened from public view, either within the garage or behind a fence which encloses the rear of the Lot.

Section 10. Mineral Operation. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall any wells, tanks, tunnels, mineral excavation, or shafts be permitted upon or in any Lot. No derrick or other structures designed for the use of boring for oil or natural gas shall be erected, maintained, or permitted upon any Lot.

Section 11. Animal Husbandry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats or other common household pets of the domestic variety may be kept provided that they are not kept, bred or maintained for commercial purposes and provided that no more than two (2) of each type animal is kept.

Section 12. Walls, Fences and Hedges. No wall, fence or hedge shall be erected or maintained nearer to the front lot line than the front building line on such Lot, nor on corner lots near to the side lot line than the building setback line parallel to the side street. No side or rear fence, wall or hedge shall be more than six (6) feet in height. No chain link fence type

construction will be permitted on any Lot. Any wall, fence or hedge erected on a Lot by Declarant or its assigns, shall pass ownership with title to the Lot and it shall be owner's responsibility to maintain said wall, fence or hedge thereafter.

Section 13. Visual Obstruction at the Intersection of Public Streets. No object or thing which obstructs sight lines at elevations between two (2) and six (6) feet above the surface of the streets within the triangular area formed by the curb lines of the streets involved and a line running from curb line to curb line at points twenty-five (25) feet from the junction of the street curb lines shall be placed, planted or permitted to remain on any corner lots.

Section 14. Lot Maintenance. The Owner or occupants of all Lots shall at all times keep all weeds and grass thereon cut in a sanitary, healthful and attractive manner and shall in no event use any Lot for storage of material and equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted. The accumulation of garbage, trash or rubbish of any kind or the burning (except as permitted by law) of any such materials is prohibited. In the event of default on the part of the Owner or occupant of any Lot in observing the above requirements or any of them, such default

continuing after ten (10) days written notice thereof, Declarant or its assigns, may without being under any duty to so do, and having no liability in trespass or otherwise, enter upon said Lot, cut, or cause to be cut, such weeds and grass and remove or cause to be removed, such garbage, trash or rubbish or do any other thing necessary to secure compliance with these restrictions and to place said Lot in a neat, attractive, healthful and sanitary condition, and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt thereof.

Section 15. Visual Screening on Lots. The drying of clothes in public view is prohibited, and the Owner or occupants of any Lots at the intersection of streets or adjacent to parks, playgrounds or other facilities where the rear yard or portion of the Lot is visible to the public shall construct and maintain a drying yard or other suitable enclosure to screen drying clothes from public view. Similarly, all yard equipment, woodpiles or storage piles shall be kept screened by a service yard or other similar facility so as to conceal them from view of neighboring Lots, streets or other property.

Section 16. Signs, Advertisements, Billboards. No sign, advertisement, billboard or advertising structure of any kind shall be placed, maintained or displayed to the public view on any Lot except one sign for each building site, of not more than five (5) square feet, advertising the property for sale or rent. Declarant, or its assigns, shall have the right to remove any such sign, advertisement, billboard or structure which is placed on said Lots, and in doing so shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal. Declarant or its assigns, may maintain, as long as it owns property in SOUTHDOWN, in or upon such portion of the Properties as Declarant may determine, such facilities as in its sole discretion may be necessary or convenient, including, but without limitation to offices, storage areas, model units and signs, and Declarant may use, and permit such builders (who are at the relevant time building and selling houses in SOUTHDOWN) to use residential structures, garages or accessory buildings for sales offices and display purposes but all rights of Declarant's permission under this sentence shall be operative and in effect only during the construction and initial sales period within the area composed of SOUTHDOWN.

Section 17. Roofing Material. The roof of any building (including any garage or servant's quarters) shall be constructed or covered with (1) wood shingles or (2) asphalt or composition type shingles comparable in color to wood shingles. The decision of such comparison shall rest exclusively with the Architectural Control Committee. Any other type of roofing material shall be permitted only at the sole discretion of the Architectural Control Committee upon written request.

Section 18. Maximum Height of Antennae. No electronic antenna or device of any type other than an antenna for receiving normal television signals shall be erected, constructed, placed or permitted to remain on any Lot, houses or buildings. Television antenna must be located to the rear of the roof ridge line, gable or center line of the principal dwelling. Freestanding antennae must be attached to and located behind the rear wall of the main residential structure. No antennae, either freestanding or attached, shall be permitted to extend more than ten (10) feet above the roof of the main residential structure on the Lot, or shall be erected on a wooden pole.

Section 19. Sidewalks. Before the dwelling unit is completed and occupied, the Lot Owner shall construct a concrete sidewalk four (4) feet in width parallel to the street curb two (2) feet back from the boundary lines of the Lot into the street

right-of-way and/or to street curbs in the case of corner lots. Owners of corner lots shall install such a sidewalk both parallel to the front lot line; and parallel to the side street lot line if there exist adjacent lots fronting on said side street. Such sidewalks shall comply with all Federal, State and County regulations respecting construction and/or specification, if any.

Section 20. Underground Electric Service. An underground electric distribution system will be installed in that part of SOUTHDOWN designated Underground Residential Subdivision, which underground service area shall embrace all Lots in SOUTHDOWN, Section Three (3). The Owner of each Lot in the Underground Residential Subdivision shall, at his own cost, furnish, install, own and maintain (all in accordance with the requirement of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the electric company's metering on customer's structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. In addition, the Owner of each such Lot shall, at his own cost, furnish, install, own and maintain a meter loop (in

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accordance with then current standards and specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for the residence constructed on such Owner's Lot. For so long as underground service is maintained in the Underground Residential Subdivision, the electric service to each Lot therein shall be underground, uniform in character and exclusively of the type known as single phase, 120/140 volt, three wire, 60 cycle, alternating current.

The electric company has installed the underground electric distribution system in the Underground Residential Subdivision at no cost to Developer (except for certain conduits, where applicable) upon Developer's representation that the Underground Residential Subdivision is being developed for single-family dwellings and/or townhouses of the usual and customary type, constructed upon the premises, designated to be permanently located upon the Lot where originally constructed and built for sale to bona fide purchasers (such category of dwelling and/or townhouse expressly excludes, without limitation, mobile homes and duplexes). Therefore, should the plans of Lot Owners in the Underground Residential Subdivision be changed so that dwellings of a different type will be permitted in such Subdivision, the company shall not be obligated to provide electric service to a

Lot where a dwelling of a different type is located unless (a) Developer has paid to the company an amount representing the excess in cost, for the entire Underground Residential Subdivision, of the underground distribution system over the cost of equivalent overhead facilities to serve such Subdivision, or (b) the Owner of such Lot, or the applicant for service, shall pay to the electric company the sum of (1) \$1.75 per front lot foot, it having been agreed that such amount reasonably represents the excess in cost of the underground distribution system to serve such Lot, plus (2) the cost of rearranging and adding any electric facilities serving such Lot, which rearrangement and/or addition is determined by the company to be necessary.

ARTICLE III

SOUTHDOWN COMMUNITY ASSOCIATION, INC.

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

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

Class A. Class A members shall be all Owners, with the exception of Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot. Holders of future interests not entitled to present possession shall not be considered as Owners for the purposes of voting hereunder.

Class B. The Class B member(s) shall be Declarant or its successors or assigns and shall be entitled to three (3) votes for each Lot owned. 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, including duly annexed areas; or

(b) on January 1, 1990.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Declarant, in the case of each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so

expressed in such deed, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements or for repayment of funds borrowed and used in payment of capital improvements. Such assessments shall be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time when the assessment fell due. Appropriate recitations in the deed conveying each Lot will evidence the retention of a vendor's lien by Declarant for the purpose of securing payment of said charge assigned to the SOUTHDOWN COMMUNITY ASSOCIATION, INC., without recourse on Declarant in any manner for the payment of said charge and indebtedness. The personal obligation for delinquent assessment shall not pass to successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the Properties.

Section 3. Maximum Annual Assessment. Southdown, Section Three (3) is to be developed in two (2) phases; Phase A and Phase B as set forth on Exhibit "A" attached hereto and made a part hereof. Until January 1 of the year immediately following the conveyance of the first lot to an Owner other than Declarant, the maximum annual assessment per Lot in Phase A or in Phase B shall be the same amount as and be payable the same as the annual assessment for Lots in SOUTHDOWN, Sections One (1) and Two (2).

(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 each year by an amount equal to not more than ten percent (10%) above the maximum annual assessment which could have been made without a vote of the membership in the case of the previous year.

(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 to an amount in excess of ten percent (10%) of the maximum assessment for the previous year 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 such purpose.

(c) The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements.

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, reconstruction, repair or replacement of a capital improvement upon the Common Area, including 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.

Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 shall be mailed (by U.S. first class mail) to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence 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 present at any such meeting, the meeting shall be adjourned but another meeting may be called subject to the same notice requirement, but the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum applicable in the case of the preceding meeting to each class of membership. No such subsequent meeting shall be held more than (60) days following the preceding meeting.

Section 6. Rate of Assessment. Lots which are owned or occupied by residents on the first day of January of each year shall be subject to the annual assessment determined by the Board of Directors in accordance with the provisions of Sections 3 and 7 hereof. Lots in SOUTHDOWN, Section Three (3) which are not occupied by a resident and which are owned by Declarant, a builder, or a building company, on the first day of January of each year, shall be assessed at the rate of one-half (1/2) of the annual assessment above. The rate of assessment for an individual Lot, within a calendar year, shall not change as the character of ownership and the status of occupancy by a resident changes.

Section 7. Date of Commencement of Annual Assessments; Due Dates. Southdown, Section Three (3) is to be developed in two (2) phases; Phase A and Phase B as set forth on Exhibit "A"

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attached hereto and made a part hereof. The annual assessment provided for herein shall commence as to all Lots in Phase A of SOUTHDOWN, Section Three (3) on the first day of January, 1985, or the first day of the month following the conveyance of the first lot to an owner other than the Declarant. The annual assessment provided for herein shall commence as to all lots in Phase B of SOUTHDOWN, Section Three (3) on the first day of January, 1986, or the first day of the month following the conveyance of the first lot to an owner other than the Declarant. The annual assessment shall be adjusted according to the number of months remaining in the then current 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 mailed (by U.S. first class mail) to every Owner subject thereto. The payment dates shall be established by the Board of Directors. The Association shall, upon demand, and for reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid and the amount of any delinquencies. The Association shall not be required to obtain a request for such certificate signed by the Owner but may deliver such certificate to any party who in the Association's judgment has a legitimate reason for requesting same.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date until paid at the rate of ten percent (10%) per annum. The Association may bring action at law against the Owner personally obligated to pay the assessment, or foreclose the lien against the Lot involved. 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 first mortgage existing at any time upon the particular Lot involved. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure (whether by exercise of power of sale or otherwise) or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payment 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, but such lien shall exist as, and constitute, a separate and distinct charge and lien on each Lot.

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, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure 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. Owner's Easement of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to any Common Area which shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

(a) The right of an Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area, if any.

(b) The right of an Association to suspend the voting rights and right to use any recreational facility by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to

exceed sixty (60) days for each infraction of its published rules and regulations;

(c) The right of an 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 two-thirds (2/3) of each class of the members agreeing to such dedication or transfer has been recorded in the Public Records of Real Property of Brazoria County, Texas.

(d) The right of an Association to collect and disburse those funds as set forth in Article IV.

Section 4. Delegation of Use. Any Owner may delegate in accordance with the By-Laws of the SOUTHDOWN COMMUNITY ASSOCIATION, INC., 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 5. Amendment. The covenants and restrictions of this declaration shall run with and bind the Properties for a term of thirty (30) years from the date this declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended at any time by an instrument signed by those Owners

owning not less than seventy-five percent (75%) of the Lots within SOUTHDOWN, Section Three (3), and thereafter by an instrument signed by those Owners owning not less than sixty percent (60%) of the Lots within SOUTHDOWN, Section Three (3). No person shall be charged with notice of or inquiry with respect to any amendment until and unless it has been filed for record in the Official Public Records of Real Property of Brazoria County, Texas.

Section 6. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of membership; however, upon submission to and approval by the Federal Housing Administration and/or the Veterans Administration of additional stage(s) or section(s) of SOUTHDOWN, such stage(s) or section(s) will be annexed either (i) by the Board of Directors of the Association without such approval by the membership or (ii) unilaterally by Declarant by the filing of a Declaration of Covenants, Conditions and Restrictions for such additional stage(s) or section(s) vesting assessment rights in the Association.

Section 7. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of subsequent sections of SOUTHDOWN, and amendment of this Declaration of Covenants, Conditions and Restrictions, and dedication of Common Area.

84 13 771

Section 8. Books and Records. The books, records and papers of the Association shall, during reasonable business hours, be subject to inspection by any member. The Articles of Incorporation, By-Laws or the Association, and Restrictive Covenants shall be available for inspection by any member at the principal office of the Association where copies may be purchased at a reasonable cost.

Section 9. Interpretation. If this Declaration or any word, clause, sentence, paragraph or other part thereof shall be susceptible of more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration shall govern.

Section 10. Omissions. If any punctuation, word, clause, sentence or provision necessary to give meaning, validity or effect to any other word, clause, sentence or provision appearing in this Declaration shall be omitted herefrom, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provision shall be supplied by inference.

Section 11. Joinder by Lienholder. The undersigned lienholder, if any, joins herein solely for the purposes of subordinating the liens held by it of record upon the Properties to the covenants, conditions and restrictions hereby imposed by

84 13 772

the Declarant with, however, the stipulation that such subordination does not extend to any lien or charge imposed by or provided for in this Declaration.

EXECUTED this the 13th day of JUNE, 1984.

DECLARANT: HOMECRAFT LAND DEVELOPMENT, INC.

ATTEST:

By: *Charles P. Lindsay*
(Name) CHARLES P. LINDSAY
(Capacity) REGION PRESIDENT

By: *Phillip Readele*
(Name) Phillip Readele
(Capacity) ASST. SECRETARY

LIENHOLDER: GIBRALTAR SAVINGS ASSOCIATION

ATTEST:

By: *John W. Chomicki* *LJA*
(Name) John W. Chomicki
(Capacity) Vice President



Wanda Ashworth
(Name) Wanda Ashworth
(Capacity) Assistant Secretary

EXHIBIT "A"

Phase "A" consists of 170 Lots as follows:

Block 1	Lots 1 through 39
Block 2	Lots 1 through 66
Block 3	Lots 1 through 25 and 38 through 48
Block 4	Lots 1 through 10
Block 6	Lots 1 through 16
Block 10	Lots 1 through 2
Block 11	Lot 11

Phase "B" consists of 70 Lots as follows:

Block 3	Lots 26 through 37
Block 4	Lots 11 through 31
Block 5	Lots 1 through 19
Block 6	Lots 17 through 29
Block 7	Lot 1
Block 8	Lots 1 through 2
Block 9	Lots 1 through 2

FILED FOR RECORD

JUL 2 8 19 AM '84

Alley D. King

COUNTY CLERK
FRATONIA COUNTY, TEXAS

THE STATE OF TEXAS }
COUNTY OF BRAZORIA }

I, Dolly Bailey, Clerk of the County Court, in and for Brazoria County, Texas, do hereby certify that the above and foregoing is a true and correct copy of that certain Declaration of Covenants, Conditions and Restrictions Southdown, Section Three (3) by Homecraft Land Development, Inc.

dated the 13 day of June, A.D., 19 84, as the same appears of record in Volume 13, Page 737 of the 84 Official Records bearing file number 23521 of Brazoria County, Texas.

GIVEN UNDER MY HAND AND SEAL OF OFFICE at Angleton, Texas, this 2 day of July, A.D., 19 84.

I, Dolly Bailey, Clerk County Court
in and for Brazoria County, Texas.

By T. Packard Deputy.
T. Packard



26769

AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
SOUTHDOWN, SECTION THREE (3)

Effective Date: August 3, 1992

This Amendment is made on the effective date by the undersigned owners of lots within Southdown, Section 3, a subdivision in Brazoria County, Texas:

WHEREAS, the undersigned are owners owning not less than 75% of the lots within Southdown, Section 3; and

WHEREAS, the lots within Southdown, Section 3, are presently subject to certain restrictions and covenants as recorded in the Declaration of Covenants, Conditions and Restrictions of Southdown, Section 3, filed for record under County Clerk's File No. 23521 in the Official Public Records of Real Property of Brazoria County, Texas; and

WHEREAS, the undersigned, the lot owners desire to amend said covenants and restrictions;

Now therefore, the undersigned lot owners do hereby adopt the following amendment to the restrictions and covenants, and make this amendment to the Declaration of Covenants, Conditions and Restrictions of Southdown, Section 3, to wit:

1. Paragraph A of Section 4 of Article 2 regarding location of the improvements upon the lot is hereby amended and the following is substituted in place thereof:

SECTION 4. Location of the Improvements Upon the Lot.

A. No building or other improvements shall be located on any Lot nearer to the front line or nearer to the street sideline than the minimum building setback line shown on the recorded plat. No building shall be located on any lot nearer than ten (10) feet to any side street line. Subject to Paragraph B of this Section, no building shall be located nearer than five (5) feet to any interior lot line, except that a detached garage or other permitted accessory building may be located within three (3) feet of an interior lot line.

LOT OWNERS:

SLS ENTERPRISES, a Texas general partnership

by: James Morell
James Morell, Manager
Owner of 169 Lots, listed in Exhibit "A"

by: Vicki Collins
Printed Name Vicki Collins
Owner of Lot 20, in Block 2

by: Fellie Britt
Printed Name FELLIE BRITT
Owner of Lot 21, in Block #2

by: LoAnne Bradley
 Printed Name: LOANNE BRADLEY
 Owner of Lot 19, in Block 2

by: Margarita Mancha Cast
 Printed Name: Margarita Mancha Cast
 Owner of Lot 12, in Block 2

by: Tim M. Mc Duell
 Printed Name: TIM M. MCDUELL
 Owner of Lot 15, in Block 1

by: Marlene D. Gorse
 Printed Name: marlene D. Gorse
 Owner of Lot 15, in Block 2

by: James R. Hammett
 Printed Name: JAMES R. HAMMETT
 Owner of Lot 17, in Block 2

by: Carol Hutson
 Printed Name: CAROL HUTSON
 Owner of Lot 17, in Block 1

by: Lauren S. Lewis
 Printed Name: LAUREN S. LEWIS
 Owner of Lot 19, in Block 1

~~by: Duane I. Manz
 Printed Name: DUANE I. MANZ
 Owner of Lot , in Block~~

by: Cindy Bilyeu-Manz
 Printed Name: Cindy Bilyeu-Manz
 Owner of Lot 18, in Block 2

~~by:
 Printed Name:
 Owner of Lot 48, in Block 2 Section 3~~

by: Michael R. Bell
 Printed Name: MICHAEL R. BELL
 Owner of Lot 16, in Block 1

by:
 Printed Name:
 Owner of Lot , in Block

921072 953

by: _____
Printed Name: _____
Owner of Lot _____, in Block _____

by: _____
Printed Name: _____
Owner of Lot _____, in Block _____

by: _____
Printed Name: _____
Owner of Lot _____, in Block _____

STATE OF TEXAS
COUNTY OF Harris

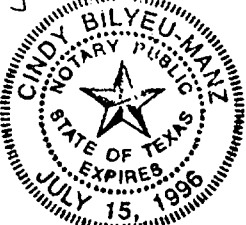
This instrument was acknowledged before me on 16th
June, 1992, by James Mann



Louise M. Pumphrey
NOTARY PUBLIC, STATE OF TEXAS
Comm. Exp.: 8/31/93
Printed name: LOUISE M. PUMPHREY

STATE OF TEXAS
COUNTY OF Brazoria

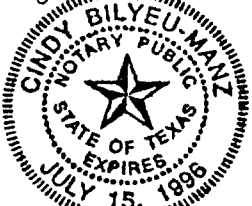
This instrument was acknowledged before me on 3rd
August, 1992, by Vicki Collins



Cindy Bilyeu-Manz
NOTARY PUBLIC, STATE OF TEXAS
Comm. Exp.: 7-15-96
Printed name: CINDY BILYEU-MANZ

STATE OF TEXAS
COUNTY OF Brazoria

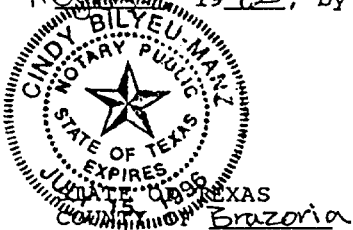
This instrument was acknowledged before me on 3rd
August, 1992, by Fellie Britt



Cindy Bilyeu-Manz
NOTARY PUBLIC, STATE OF TEXAS
Comm. Exp.: 7-15-96
Printed name: CINDY BILYEU-MANZ

STATE OF TEXAS
COUNTY OF Brazoria

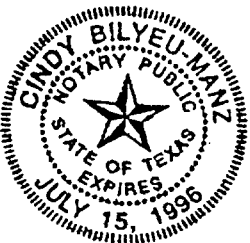
This instrument was acknowledged before me on 3rd
August, 1992, by Letrae Bradley



Cindy Bilyeu-Manz
NOTARY PUBLIC, STATE OF TEXAS
Comm. Exp.: 7-15-96
Printed name: CINDY BILYEU-MANZ

STATE OF TEXAS
COUNTY OF Brazoria

This instrument was acknowledged before me on 3rd
August, 1992, by Margaretta Munda Cost

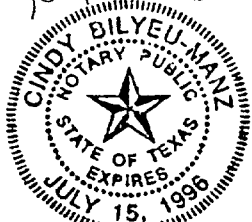


Cindy Bilyeu-Manz
NOTARY PUBLIC, STATE OF TEXAS
Comm. Exp.: 7-15-96
Printed name: CINDY BILYEU-MANZ

STATE OF TEXAS
COUNTY OF Brazoria

STATE OF TEXAS
COUNTY OF Brazoria

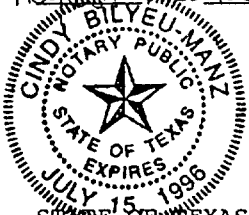
This instrument was acknowledged before me on 3rd
August, 1992, by Sam M. McCall



STATE OF TEXAS
COUNTY OF Brazoria

Cindy Bilyeu-Manz
NOTARY PUBLIC, STATE OF TEXAS
Comm. Exp.: 7-15-96
Printed name:
CINDY BILYEU-MANZ

This instrument was acknowledged before me on 3rd
August, 1992, by Madene W. Doss



STATE OF TEXAS
COUNTY OF Brazoria

Cindy Bilyeu-Manz
NOTARY PUBLIC, STATE OF TEXAS
Comm. Exp.: 7-15-96
Printed name:
CINDY BILYEU-MANZ

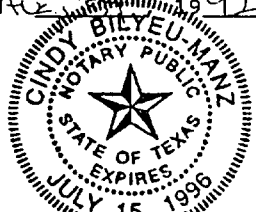
This instrument was acknowledged before me on 3rd
August, 1992, by James R. Hammit



STATE OF TEXAS
COUNTY OF Brazoria

Cindy Bilyeu-Manz
NOTARY PUBLIC, STATE OF TEXAS
Comm. Exp.: 7-15-96
Printed name:
CINDY BILYEU-MANZ

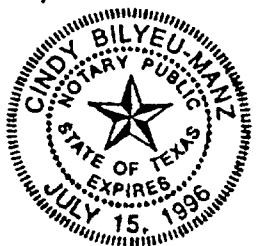
This instrument was acknowledged before me on 3rd
August, 1992, by Carol A. Lita



STATE OF TEXAS
COUNTY OF Brazoria

Cindy Bilyeu-Manz
NOTARY PUBLIC, STATE OF TEXAS
Comm. Exp.: 7-15-96
Printed name:
CINDY BILYEU-MANZ

This instrument was acknowledged before me on 3rd
August, 1992, by James J. Lewis



Cindy Bilyeu-Manz
NOTARY PUBLIC, STATE OF TEXAS
Comm. Exp.: 7-15-96
Printed name:
CINDY BILYEU-MANZ

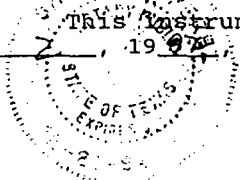
STATE OF TEXAS
COUNTY OF Brazoria

This instrument was acknowledged before me on _____
_____, 19____, by Duane J. Mary

NOTARY PUBLIC, STATE OF TEXAS
Comm. Exp.:
Printed name:

STATE OF TEXAS
COUNTY OF BRAZORIA

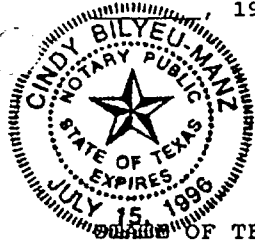
This instrument was acknowledged before me on July
7, 1992, by Cindy Bilyeu-Manz



Sharon L. Perez
NOTARY PUBLIC, STATE OF TEXAS
Comm. Exp.: 12-21-92
Printed name: SHARON L. PEREZ

STATE OF TEXAS
COUNTY OF Brazoria

This instrument was acknowledged before me on August 13
1992, by Michael D. Bell



Cindy Bilyeu-Manz
NOTARY PUBLIC, STATE OF TEXAS
Comm. Exp.: 7-15-92
Printed name: CINDY BILYEU-MANZ

STATE OF TEXAS
COUNTY OF _____

This instrument was acknowledged before me on _____
_____, 19____, by _____

NOTARY PUBLIC, STATE OF TEXAS
Comm. Exp.:
Printed name:

STATE OF TEXAS
COUNTY OF _____

This instrument was acknowledged before me on _____
_____, 19____, by _____

NOTARY PUBLIC, STATE OF TEXAS
Comm. Exp.:
Printed name:

921072 957

EXHIBIT A

SOUTHDOWN SECTION THREE

BEING all of the Lots 23 - 39, Block 1; Lots 27, 28, 32 - 47, 50, 51, Block 2; Lots 1 - 48, Block 3; Lots 1 - 31, Block 4; Lots 1 - 19, Block 5; Lots 2 - 4, 6 - 9, 11 - 29, Block 6; Lot 1, Block 7; Lots 1 & 2, Block 8; Lots 1 & 2, Block 9; Lots 1 & 2, Block 10; Lot 1, Block 11; and Reserve A all in SOUTHDOWN, SECTION THREE, a subdivision per map or plat thereof recorded in Volume 17, Page 153 of the Map Records of Brazoria County, Texas.

THE STATE OF TEXAS
COUNTY OF BRAZORIA

I, DOLLY BAILEY, Clerk of the County Court in and for Brazoria County, Texas, do hereby certify that this instrument was FILED FOR RECORD and RECORDED in the Volume and page of the OFFICIAL RECORD at the time and date as stamped hereon by me.



Dolly Bailey
County Clerk of Brazoria, Co., TX

FILED FOR RECORD

AUG 21 10 56 AM '92

Dolly Bailey
COUNTY CLERK
BRAZORIA COUNTY, TEXAS

Return To:
DENNIS J. ALBRIGHT
Atrium 10 Tower-Suite 195
11811 East Freeway
Houston, Texas 77029