



**SECOND AMENDED DECLARATION
OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF
BRIARWOOD SUBDIVISION, SECTION II**

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On or about April 15, 1974, Elgin Realty Co. executed and caused to be recorded a certain Declaration of Covenants, Conditions and Restrictions affecting Briarwood Subdivision, Section II, City of Lake Jackson, Brazoria County, Texas, according to the map or plat thereof duly recorded in Volume 13, Page 71 of the Plat Records of Brazoria County, Texas, which Declaration was filed for record at Volume 1201, page 134 of the Deed Records of Brazoria County, Texas, reference to which is here made for all purposes.

On or about August 28, 1979, an Amendment to Declaration of Covenants, Conditions and Restrictions Briarwood Subdivision, Section II was recorded at Volume 1473, Page 730 of the Deed Records of Brazoria County, Texas, reference to which is here made for all purposes.

Although said Declaration, as previously amended, provides that it may be amended by less than seventy-five (75%) of the Lot Owners, Section 209.0041 of the Texas Property Code allows said Declaration to be amended by a vote of sixty-seven percent (67%) of the total votes allocated to property owners in the property owners' association. Before being recorded in the Official Records of the Brazoria County Clerk, this Second Amended Declaration of Covenants, Conditions, and Restrictions of Briarwood Subdivision, Section II has been approved by a vote of sixty-seven percent (67%) as required by Section 209.0041 of the Texas Property Code and has been signed by the holders of at least that sixty-seven percent (67%) of the votes.

All obligations of any Owner and all rights of the Association, its Board of Directors, and its committees under the above described Declaration, as amended, are hereby preserved and maintained in full force and effect, and those obligations and rights shall be cumulative of all

** This document is being re-recorded to include signatures that were omitted on the original recording.*

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obligations and rights under this Second Amended Declaration of Covenants, Conditions, and Restrictions of Briarwood Subdivision, Section II.

All of the Lots in Briarwood Subdivision, Section II, City of Lake Jackson, Brazoria County, Texas, according to the map or plat thereof duly recorded in Volume 13, page 71, of the Plat Records of Brazoria County, Texas, reference to which is here made for all purposes, shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which are to run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner.

ARTICLE I
DEFINITIONS

Section 1. “Assessment” shall mean any amount of any nature whatsoever owed by an Owner to the Association under this Declaration.

Section 2. “Association” shall mean the Briarwood Homeowners Association and its successors and assigns.

Section 3. “Owner” shall mean 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 4. “Properties” shall mean all of the Lots in Briarwood Subdivision, Section II, City of Lake Jackson, Brazoria County, Texas, according to the map or plat thereof recorded at Volume 13, Page 71 of the Plat Records of Brazoria County, Texas, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 5. “Common Area” shall mean all real property owned by the Association for the common use and enjoyment of the Owners. The Common Area previously conveyed to the Association is described as follows:

All of Section II, less and except Block One (1) through Eight (8), both inclusive, of Briarwood Subdivision, City of Lake Jackson, Brazoria County, Texas, according to the map or plat thereof duly recorded in Volume 13, Page 71 of the Plat Records of Brazoria County, Texas, reference to which is here made for all purposes.

Section 6. “Lot” shall mean any lot or plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

ARTICLE II PROPERTY RIGHTS

Section 1. **Owners’ Easements of Enjoyment.** Every owner shall have a right and easement of enjoyment in and to the 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 the Association to suspend rights to services and use of the recreational facilities by an Owner, his family, his tenants, residents of his Lot, or any others claiming through that Owner: (1) for any period during which any Assessment against his Lot remains unpaid; (2) or any period during which the Owner, any occupant of the Owner’s Lot, or any aspect of the Owner’s Lot is in

violation of this Declaration, any rules or regulations of the Association, or any other dedicatory instrument affecting the Property; and (3) for a period not to exceed sixty (60) days after such violation ceases;

- b. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless a recorded instrument agreeing to such dedication or transfer has been signed by the holders of two-thirds (2/3) of the votes of the members. .

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property. If any such delegee or guest of that Owner violates this Declaration, any rules or regulations of the Association, or any other dedicatory instrument affecting the Property, then the Owner shall be jointly and severally responsible with such other person to the Association for such violation.

Section 3. Single Family Residential Use. Each Lot shall be occupied and used only for a single- family residential dwelling unit for the Owner, his family, his social guests, his tenants or contract purchasers.

Section 4. Title to the Common Area. Fee simple title to the Common Area has been conveyed to the Association free and clear of all encumbrances, and no liens shall be filed against the Common Area by any Owner of any Lot.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

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

Section 2. The Owners shall be entitled to one vote for each Lot owned. When more than one person holds a fee interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as the Owners of the Lot determine among themselves , but in no event shall more than one vote be cast with respect to any Lot.

Section 3. Since multiple Owners of a single Lot share a single vote, any reference herein to a particular fraction of the members shall mean that fraction of the votes, not of the persons.

ARTICLE IV
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Assessments. The Owners and the Association hereby covenant, and each Owner by acceptance of a deed for any Lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Monthly Assessments or charges; (2) special Assessments for capital improvements, such Assessments to be established and collected as herein provided; and (3) other Assessments as herein provided. All Assessments together with interest, costs, and reasonable attorney's fees, shall be a charge on the real estate and shall be a continuing lien against the property 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 Owner of such property at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall survive

any sale or assignment of the interest of any Owner of any Lot; however, the lien securing any such Assessment shall run with the land, despite any transfer of any interest in the property, except as provided in Article X.

Section 2. Purpose of Assessments. The Assessments levied by the Association shall be used: (a) to promote the recreation, health, safety, and welfare of the residents of the Properties; (b) for the improvement and maintenance of the Common Area; (c) to the extent authorized hereby or by law, for the improvement and maintenance of the structures on the Properties; and (d) for any other purpose authorized by this Declaration or by law.

Section 3. Maximum Monthly Assessment. Except as otherwise provided herein, monthly Assessments shall be payable in advance on the first day of each and every month.

- a. The monthly Assessment is currently 126.00.
- b. The Board of Directors may from time to time change the amount of the monthly Assessment, provided that the Board may not increase the Assessment by more than ten (10%) over the previous amount in any twelve month period.
- c. The members may increase the monthly Assessment by an amount greater than the ten percent (10%) limit in the preceding subsection, with two-thirds (2/3) of the votes of the members who actually cast votes on this issue.

Section 4. Special Assessments for Capital Improvements. In addition to the monthly Assessments authorized above, the Association may levy at any time special Assessments for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair, alteration, or replacement of a capital improvement upon the Common Area, easements, private streets, parking area, or to the extent authorized by this Declaration, any dedicatory instrument, or applicable law, any structure on any Lot. Special Assessments may

also be used for any such costs of fixtures and personal property related to any of the foregoing. Any such special Assessment shall require the assent of two-thirds (2/3) of the votes of the members who actually cast votes on this issue.

Section 5. Notice and Quorum for any Action Authorized under Sections 3 and 4.

Written notice of any meeting of the members called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 10 days nor more than 30 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 the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called, subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting; provided, however, that the reduced quorum requirement shall apply only if such subsequent meeting is held not more than 30 days following the preceding meeting at which a quorum was not present.

Section 6. Uniform Rate of Assessment. Both monthly and special Assessments shall be fixed at uniform rate for all Lots, except for Assessments placed upon a particular Lot or Lots due to noncompliance with this Declaration. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified lot have been paid.

ARTICLE V
MAINTENANCE AND REPAIR

Section 1. Maintenance and Repair.

The care, painting, other maintenance, repair, and replacement of the following items on each Lot, whether interior or exterior, shall be the responsibility of, and at the expense of, the Owner of that Lot: all structural components, building surfaces and materials, fences, roofs, gutters, downspouts, patios, plantings, trees, grass, doors, garage doors, glass, windows, sky lights, utilities, electrical fixtures, accessories, equipment, appliances, fixtures, air conditioning condenser, including pipes and electrical lines connecting same to the residence, sanitary sewer line connecting the residence to the city sewer, electrical power service conductors from the exterior of the building to the point of connecting to the electrical utility company's junction box or transformer, electric circuit breakers, any portion of natural gas, telephone, and any other utility service lines located on the Lot but not maintained by the utility companies. Plans for paint on any exterior surface and plans for any construction, repair, or alteration of any structure shall be submitted to and subject to the approval of the Architectural Control Committee as set forth in Article VI hereof.

Section 2. Limits on Work.

- a. An Owner shall do no act or work that may impair the structural soundness or integrity of another residence or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other residences or Owners.
- b. Each Owner shall be responsible to the Association for all loss and damage caused by the Owner, his family, his tenants, or his guests.

Section 3. **Additional Remedies.** If an Owner fails to comply with this Article, the Board of Directors of the Association may, in its discretion, notify the Owner in writing of the noncompliance. If the Owner fails to comply to the reasonable satisfaction of the Board of Directors of the Association within ninety (90) days of receipt of written notice, or within such shorter time as the Board determines in its discretion, then the Board shall have the right, but not the obligation, to cause the work in question to be performed. The cost of such work, including labor, materials, and all other costs, plus a fee of fifteen percent of all of those amounts, shall be paid by such Owner within thirty (30) days after demand by the Board, and if not so paid, those amounts and fee shall be added to and become a part of the Assessment on the Lot involved and shall remain a personal liability of the Owner and shall be secured by the Assessment lien on the Lot involved.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. **Architectural Control Committee.** The Board of Directors of the Association may appoint an Architectural Control Committee composed of three or more Owners, who may be directors or other Owners. If at any time there is no Architectural Control Committee, the Board of Directors of the Association shall have all rights and duties of the Architectural Control Committee.

Section 2. **Approval of Plans.** No building, fence, wall or other structure of any nature shall be commenced, erected, or altered upon the Properties, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structure and topography by the Architectural Control Committee. The

Owner shall also submit any additional information and materials that the Architectural Control Committee requests concerning the proposed project. If the Architectural Control Committee fails to approve or disapprove such design and location within thirty (30) days after said plans, specifications, and all other information and materials requested by the Architectural Control Committee have been submitted to it, approval will not be required, and this Article will be deemed to have been fully complied with.

Section 3. Architectural Control Committee Rules. The Architectural Control Committee is hereby authorized to make rules and regulations concerning any matters within this Article, and such rules shall be effective when recorded in the Official Records of Real Property of the Brazoria County Clerk. Without limiting the generality of the foregoing, the Architectural Control Committee is specifically authorized to make rules and regulations concerning rain barrels, rain harvesting systems, political signs, solar energy devices, storm and energy efficient shingles, flags, and the display of religious items. Such rules and regulations shall be construed as minimum standards and shall not impair the discretion of the Architectural Control Committee to require higher standards.

ARTICLE VII PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to fault of a person or due to an unlawful act, omission, or condition shall apply thereto.

Section 2. **Sharing of Repair and Maintenance.** Except as provided in Sections 1, 3, or 4, the cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

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

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

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

Section 6. **Arbitration.** In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

Section 7. Measurement of Proportionate Use. For purposes of this Article, the proportions of use of a party wall by different Owners shall be determined by the surface area facing each Owner's Lot.

**ARTICLE VIII
INSURANCE**

Section 1. Insurance of Owners' Property.

- a. **Insurance Required.** Each Owner shall continuously maintain insurance on the structures on his Lot for the full replacement value thereof, against loss or damage from fire, hail, windstorm, extended peril, and "physical loss", naming the Association as an additional insured. The Owner shall furnish proof of adequate coverage to the complete satisfaction of the Association.
- b. **Other Insurance at Owner's Option.** In addition to the aforesaid insurance required to be carried by the Owners, any Owner may, at his own expense, carry any and all other insurance he deems advisable. It shall be the individual responsibility of each Owner at his own expense to provide, as he sees fit, homeowners' liability insurance, theft and other insurance covering personal property damage and loss.
- c. **Proof of Loss.** Upon failure of an Owner to sign a "Proof of Loss" within 15 days of said loss, the Association may sign such "Proof of Loss" which shall be binding upon the Owner, and each insurance company is directed in event of such failure of the Owner to sign such "Proof of Loss" to make payment upon demand by the Association, to the Association only, to the exclusion of such Owner.
- d. **Repairs Required.** In the event of damage or destruction by fire or other casualty to any structure covered by insurance, said Owner shall with the concurrence of the mortgagee, if any, and the Association, upon the receipt of insurance proceeds

(to the extent that the loss is insured), contract to repair or rebuild such damaged or destroyed portions of the structure in a good and workmanlike manner. Such repair or rebuilding shall be in conformance with the original plans and specifications of said dwelling, unless the Architectural Control Committee approves otherwise.

- e. Failure to Repair. In the event such Owner refuses or fails to so repair and rebuild any and all such damage to the structure within thirty (30) days, the Association, by and through its Board of Directors, is hereby irrevocably authorized, but not obligated, by such Owner and this Declaration to fully or partially repair and rebuild any such dwelling unit and or other structure generally in conformance with the original plans and specifications or as otherwise approved by the Architectural Control Committee. The Owner shall repay the Association the amount actually expended for such repairs together with interest at the rate of ten percent per year beginning thirty days after demand for payment by the Association, plus court costs, attorney's fees, and all other costs of collection. Said debts shall be an Assessment and shall be secured by the Assessment lien provided by this Declaration. If the Association receives insurance proceeds for damages repaired at any time by the Association or its contractor under this subsection, then the Association shall apply those insurance proceeds to the cost of repairs, and those proceeds shall reduce the Owner's obligation to reimburse the Association. The Association shall pay to the Owner any excess of such insurance proceeds, over and above all amounts of any nature owed by the Owner to the Association for any debt whatsoever, under this section or otherwise.

- f. **Owner's Failure to Obtain Insurance.** If an Owner fails to provide proof of insurance to the complete satisfaction of the Association as required by Subsection a, then the Board of Directors shall have the authority, but not the obligation, to obtain the insurance required by Subsection a. The Owner shall repay the Association for the cost of that insurance, and such debt shall be an Assessment under this Declaration for all purposes.

Section 2. Insurance of Association's Property.

- a. **Liability Insurance.** The Board of Directors may obtain a broad form public liability policy covering all or any part of the Common Area, and all damage or injury caused by the fault of the Association or any of its agents. Such insurance may include coverage against vandalism. Premiums for all such insurance, unlike insurance on the individual dwelling units, shall be common expenses. All such insurance coverage, if any, obtained by the Board of Directors, shall be written in the name of the Association.
- b. **Property Insurance.** The Board of Directors may maintain insurance on any or all property of the Association for the full or partial replacement value thereof, against loss or damage from fire, hail, windstorm, extended peril, and "physical loss."
- c. **Repairs.** In the event of destruction by fire or other casualty to any property of the Association covered by insurance obtained by and written in the name of the Association, the Board of Directors is authorized, but not obligated, to contract to fully or partially rebuild or repair such damage or destroyed portions of the property. All insurance proceeds for such loss shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a

Federal governmental agency, with the proviso agreed to by said bank or institution that such funds may be withdrawn only by signature of an agent duly authorized by the Board of Directors. The Board of Directors may contract with any contractor, for the full or partial repair, reconstruction, or rebuilding of such damaged or destroyed structure. In the event the insurance proceeds are insufficient to pay all the cost of repairing and/or rebuilding to the same condition as formerly, the Board of Directors may levy a special Assessment against all Owners, to make up any deficiency for repair or rebuilding.

ARTICLE IX USE RESTRICTIONS

The Lots and the Common Area shall be occupied and used as follows:

Section 1. Residential Use. No Owner shall occupy or use his Lot or building thereon or permit the same or any part thereof to be occupied or used for any purpose other than as a private residence for one family.

Section 2. Obstruction of Common Area. There shall be no obstruction of the Common Area. Nothing shall be stored or placed in the Common Area without the prior written consent of the Board of Directors.

Section 3. Insurance. Nothing shall be done or kept on any Lot or in the Common Area which will increase the rate of insurance on the Common Area, without the prior written consent of the Board of Directors. No Owner shall permit anything to be done or kept in or on his Lot or in the Common Area which may result in the cancellation of insurance on any Lot or any part of the Common Area, or which would be in violation of any law.

Section 4. Waste. No waste will be permitted in the Common Area.

Section 5. Nuisance. No noxious or offensive activity or condition shall be carried on or permitted to exist upon any Lot or the Common Area, nor shall anything be done, kept, or permitted thereon which may be or may become an annoyance or nuisance to the other Owners. No inoperative motor vehicle shall be parked or stored in front of any dwelling unit or in any street, parking area or yard adjacent to a street for more than 48 hours.

Section 6. Outbuildings and Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, barn, servants' quarters or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently; nor shall any used residence or other structure be moved onto any Lot.

Section 7. Signs. No signs of any kind shall be displayed to public view on any Lot or building except one sign of not more than five (5) square feet in area advertising the merits of the property for sale or rent, or except as allowed by rules or regulations enacted by the Architectural Control Committee.

Section 8. Oil and Mining Operations. No gas or oil drilling, gas or oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, Common Area, street or parking area, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot, Common Area, street or parking area.

Section 9. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other customary household pets, not to exceed a total of two (2) may be kept, provided that they shall not become a nuisance and are not kept, bred, or maintained for any commercial purpose.

Section 10. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste, all of which shall be kept screened by adequate planting or fencing so as to conceal them from public view. There is reserved in favor of the Association the determination of the method of garbage disposal; that is, whether it shall be through authority or through private garbage disposal contractor(s). All containers or other equipment for the storage or disposal of such materials shall be kept covered and in clean and sanitary condition.

Section 11. Sewage Treatment. No sewage treatment system, other than a connection to the city sewage system, shall be permitted on any Lot.

Section 12. Use of Common Area. Except in the individual front and rear yard area appurtenant to a residence, exclusive of the easement as shown by the recorded plat, no planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon said Property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Association's Board of Directors or its designated Architectural Control Committee. Except for the right of ingress and egress and the right and easement of enjoyment as defined herein, the Owners are hereby prohibited and restricted from using any of said Property outside the fence lines of each Lot as such fence lines now exist, except as may be allowed by the Association's Board of Directors. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all Owners of the Properties, and any additions thereto, and is necessary for the protection of said Owners. Maintenance, upkeep and repairs of any front and rear yard shall be the sole responsibility of the individual Owner and not in any manner the responsibility of the Association, except to the extent, if any, assumed by the Association. Any cooperative action

necessary or appropriate to the proper maintenance and upkeep of the Common Area including but not limited to recreation and parking areas and walks, shall be determined and caused to be carried out by the Board of Directors or by its duly delegated representative.

Section 13. Construction Easement. Each Lot and the property included in the Common Area shall be subject to an easement for encroachments created by construction, air conditioning compressors, settling and overhangs, as now designed or constructed. A valid easement for any such encroachment and for the maintenance of same, so long as it stands, shall and does exist. In the event a structure containing two or more residences is partially or totally destroyed and then rebuilt, the Owners so affected agree that minor encroachments of parts of the adjacent residential units on Common Areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 14. Utility, Emergency and Association Easements. There is hereby created a blanket easement upon, across, over and under all of the Properties for ingress, egress, installation, replacing, repairing, and maintaining all utilities, including but not limited to water, sewer, gas, telephones, electricity, cable television, and internet. An easement is further granted to all police, fire protection, ambulance, garbage and trash collection, and other public service personnel and vehicles to enter upon the parking areas and Common Area in the performance of their duties. Further, an easement is hereby granted to the Association to enter in or to cross over the Common Area and any Lot to perform the duties of maintenance and repair of the residences or Common Area provided herein. Notwithstanding anything to the contrary contained in this Paragraph, no sewers, electrical lines, water lines or other utilities may be installed or relocated on said Property except as initially programmed and approved by the Declarant or thereafter approved by Declarant or the Association's Board of Directors. Should any utility furnishing a

service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant shall have the right to grant such easement on said Property without conflicting with the terms hereof. The easements provided for in this Article shall in no way affect any other recorded easement on said premises.

Section 15. Rules and Regulations. In addition to the foregoing Use Restrictions, the Association has established certain Rules and Regulations, which shall be binding upon the Association, the Owners, and all persons using, occupying, or claiming an interest in the Common Area or any residential building site. Such Rules and Regulations may be amended from time to time by the Board of Directors of the Association, and such amended Rules and Regulations shall take effect upon any of the following: delivery to the Owners; notice to the Owners by mail; or by posting in a conspicuous place on the Common Area of Briarwood Subdivision, Section II.

ARTICLE X DEBTS AND LIENS

Section 1. Effect of Nonpayment. Remedies of the Association.

- a. **Scope of This Section.** This section applies to all amounts owed by an Owner to the Association and to all liens of the Association to secure any such amount, regardless whether such debts and liens are for monthly assessments, special assessments, or any other amount of any nature whatsoever.
- b. **Amounts Due.** At the option of the Association, any Assessment not paid within five (5) days after the due date thereof shall have a late charge of five dollars (\$5.00) added for each such payment due and unpaid. Each part, except interest, of each Assessment not paid when due shall bear interest from the due date of that

part at the rate of ten percent (10%) per annum. Any person liable for any Assessment shall also be liable for interest thereon as herein provided, costs of court, attorney's fees, and any other costs of collection of the Association, and all of those amounts shall be part of the Assessment.

- c. **Lien to Secure Assessments.** Subject to subsection d, a vendor's lien and superior title are retained to secure the payment of all Assessments. The Association may bring an action at law against the Owner personally obligated to pay an Assessment, or may foreclose its lien against the property, or both. No Owner may waive or otherwise escape liability for the Assessments by non-use of the Common Area or abandonment of his Lot. At the option of the Association, use of recreational facilities and the Common Area may be denied any member, his family, guests, and tenants during the term of any default in the obligation to pay any Assessment or as otherwise provided herein, but such denial shall not reduce or suspend the obligation to pay any Assessment.

d. **Limitation of Certain Liens on Homesteads.**

- 1 In this subsection d, the term "homestead" refers to the homestead exemption from forced sale under the constitution and laws of the State of Texas.
- 2 To the fullest extent allowed by law, all liens pursuant to this Second Amended Declaration shall be superior to any homestead rights arising after this Second Amended Declaration is recorded in the Official Records of the Brazoria County Clerk.
- 3 This paragraph d, 3 applies to any property that is subject to a homestead right that both (1) arises before this Second Amended Declaration is recorded and

(2) remains continuously in effect until the debt in question to the Association becomes due. The Association's lien hereunder on property subject to this paragraph d, 3 shall be limited to the lien provided by the version of this Declaration (the original Declaration recorded on April 24, 1974, at Volume 1201 Page 134 of the Deed Records of Brazoria County, Texas, or the Amendment to Declaration recorded on August 28, 1979, at Volume 1473 Page 730 of the Deed Records of Brazoria County, Texas) that was in effect when that homestead right arose on that property. This paragraph d,3 limits only certain liens, not any debt. In the event of any conflict in terms, this paragraph d, 3 shall govern and control, regardless whether any other provision states that it is subordinate to this paragraph.

Section 2. Subordination of the Lien to Certain Mortgages. The lien securing the Assessments provided for herein shall be subordinate to any bona fide lien securing the purchase money of any Lot or the cost of the construction, repair, or alteration of any improvement on any Lot; provided, however, that the enactment of this Second Amended Declaration of Covenants, Conditions, and Restrictions of Briarwood Subdivision, Section II shall not be construed to impair the priority of a mortgage that was superior to the Association's Assessment lien at the time this Second Amended Declaration was recorded. Sale or transfer of any Lot shall not affect the Assessment lien, which shall run with the land. However, the sale or transfer of any Lot pursuant to the foreclosure of any lien that is superior to the Assessment lien, or pursuant to any proceeding in lieu thereof, shall extinguish the lien securing such Assessments as to payments which become due prior to such sale or transfer. No such sale or transfer shall impair any Assessment lien for

any Assessments thereafter becoming due. No such sale or transfer shall impair any personal liability of any person for any amounts hereunder, except to the extent the proceeds of such sale are received by the Association and applied to that personal liability.

ARTICLE XI
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 on one or more occasions by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter, and enforcement thereof may be resumed without advance notice except for any notice specifically required hereby.

Section 2. Remedies.

- a. The Association and any Owner who prevails in enforcing this Declaration or any dedicatory instrument affecting Briarwood Subdivision, Section II shall be entitled to recover reasonable attorney's fees, costs of court, other reasonable costs of enforcement and collection, damages resulting from the violation, and all other remedies provided by law or in equity, from each person violating this Declaration or any such dedicatory instrument. However, nothing herein shall authorize recovery of attorney's fees from the Association.
- b. All remedies of the Association provided by this Declaration, by law, or by any other source shall be cumulative of each other. The doctrine of election of remedies shall not apply against the Association.

- c. If an Owner fails to take any action required by this Declaration, then the Association may take that action, and the Owner shall reimburse the Association upon demand for the cost of doing so. To the extent that the Association or any person or group acting on its behalf takes any action that an Owner has failed to do, then the Association or such person acting on its behalf shall never be construed to be an agent or fiduciary of the Owner.

Section 3. **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 4. **Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land for a term of ten (10) 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 by a recorded instrument signed by the holders of not less than sixty-seven percent (67%) of the total votes allocated to all Owners.

Section 5. **Annexation.** Additional residential property and Common Area, may be annexed to the properties with the consent of two-thirds (2/3) of the Owners.

BRIARWOOD HOMEOWNER ASSOCIATION, INC.

By: *Susanna Gibson*
Susanna Gibson, President

Attest:

By: *Sallie Cadenhead*
Sallie Cadenhead, Secretary

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5 day of February 2013, by Susanna Gibson, as President on behalf of Briarwood Homeowners Association, Inc.

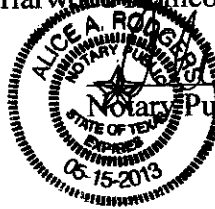


Alice A. Rodgers
Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5 day of February 2013, by Sallie Cadenhead, as Secretary on behalf of Briarwood Homeowners Association



Alice A. Rodgers
Notary Public in and for the State of Texas

OWNERS' SIGNATURE PAGES FOLLOW.

FILED and RECORDED

Instrument Number: 2013015107

Filing and Recording Date: 04/02/2013 12:25:53 PM Pages: 25 Recording Fee: \$108.00

I hereby certify that this instrument was FILED on the date and time stamped hereon and RECORDED in the OFFICIAL PUBLIC RECORDS of Brazoria County, Texas.



A handwritten signature in black ink, appearing to read "Joyce Hudman".

Joyce Hudman, County Clerk
Brazoria County, Texas

ANY PROVISION CONTAINED IN ANY DOCUMENT WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE REAL PROPERTY DESCRIBED THEREIN BECAUSE OF RACE OR COLOR IS INVALID UNDER FEDERAL LAW AND IS UNENFORCEABLE.

DO NOT DESTROY - Warning, this document is part of the Official Public Record.

cclerk-nicole

OWNERS:

I Sallie Cadenhead
Signed for the
Following Proxies

Sallie Cadenhead

Richard Sherman
SARAH Locke Castor
Betty Marshall
THE STATE OF TEXAS §

Judy Webb
Chris Monzales
JANE Phillips §

mel Rasco
Cindy Steers
KAY Hill
Norma Taylor

RAY Killebrew
James Smith
Chris Lewis

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5 day of February, ²⁰¹³2012, by
Sallie Cadenhead



Alice A. Rodgers
Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the ___ day of _____, 2012, by

Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the ___ day of _____, 2012, by

Notary Public in and for the State of Texas

OWNERS' SIGNATURES ON SECOND AMENDED
DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS OF BRIARWOOD SUBDIVISION, SECTION II

[Signature]
OWNER by Proxy for
Kenneth Fox
OWNER

[Signature]
OWNER by Winston Avera

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5 day of Feb, 2013, by
Winston Avera



[Signature]
Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the ___ day of _____, 2013, by

Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the ___ day of _____, 2013, by

Notary Public in and for the State of Texas

OWNERS' SIGNATURES ON SECOND AMENDED
DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS OF BRIARWOOD SUBDIVISION, SECTION II

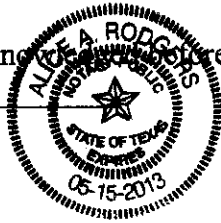
Robert Dixon
OWNER *signing by Proxy for*
To Ann Gibson
OWNER

To Ann Gibson
OWNER *by Robert Dixon*

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5 day of Feb, 2013, by
Robert Dixon



Alice A. Rodgers
Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the ___ day of _____, 2013, by

Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the ___ day of _____, 2013, by

Notary Public in and for the State of Texas

OWNERS' SIGNATURES ON SECOND AMENDED
DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS OF BRIARWOOD SUBDIVISION, SECTION II

Billie Shipman
OWNER

Sallie Cadenhead
OWNER

C E Shipman, Jr.
OWNER

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

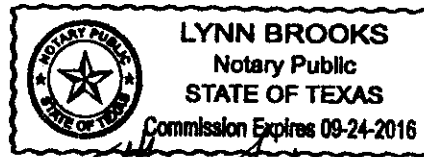
This instrument was acknowledged before me, on the 5th day of February 2013, by
Billie Shipman

Lynn Brooks
Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February 2013, by
C E Shipman, Jr.

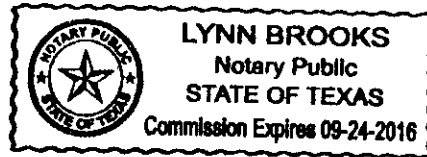


Lynn Brooks
Notary Public in and for the State of Texas

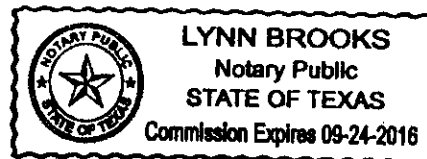
THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February 2013, by
SALLIE CADENHEAD



Lynn Brooks
Notary Public in and for the State of Texas



OWNERS' SIGNATURES ON SECOND AMENDED
DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS OF BRIARWOOD SUBDIVISION, SECTION II

Lloyd Connick
OWNER

OWNER

Peggy Connick
OWNER

THE STATE OF TEXAS §

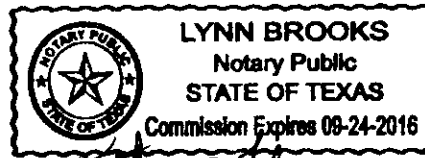
COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February 2013, by
Peggy Connick

Lynn Brooks
Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

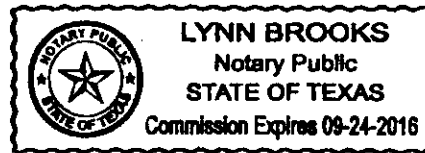


This instrument was acknowledged before me, on the 5th day of February 2013, by
Lloyd Connick

Lynn Brooks
Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §



This instrument was acknowledged before me, on the ___ day of _____, 2013, by

Notary Public in and for the State of Texas

OWNERS' SIGNATURES ON SECOND AMENDED
DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS OF BRIARWOOD SUBDIVISION, SECTION II

Michelle D. [Signature]
OWNER

Tara M. Rice [Signature]
OWNER

SANTONIO TURRUBIANES
OWNER

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February 2013, by Michelle Turrubianes.

Lynn Brooks [Signature]
Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February 2013, by SANTONIO TURRUBIANES.

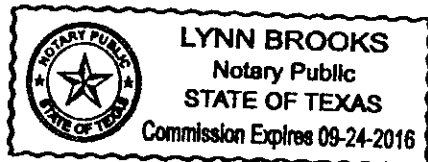
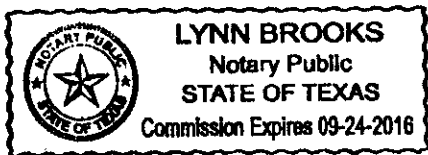
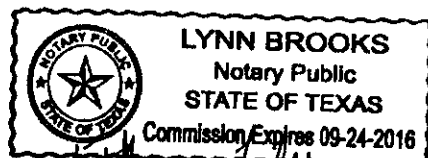
Lynn Brooks [Signature]
Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February 2013, by Tara M. Rice.

Lynn Brooks [Signature]
Notary Public in and for the State of Texas



OWNERS' SIGNATURES ON SECOND AMENDED
DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS OF BRIARWOOD SUBDIVISION, SECTION II

Linda Copeland
OWNER

Kea Copeland
OWNER

Robert Dixon
OWNER

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February, 2013, by
Linda Copeland.

Lynn Brooks
Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February, 2013, by
Kea Copeland.

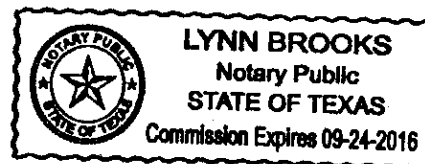
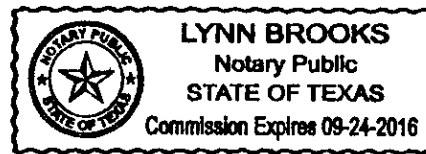
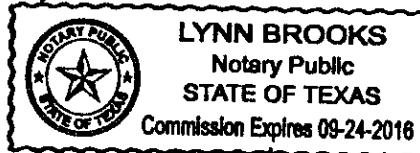
Lynn Brooks
Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February, 2013, by
Robert Dixon.

Lynn Brooks
Notary Public in and for the State of Texas



OWNERS' SIGNATURES ON SECOND AMENDED
DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS OF BRIARWOOD SUBDIVISION, SECTION II

Lena L. Brooks
OWNER

OWNER

OWNER

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5 day of February, 2013, by
Lena L. Brooks.

Alice A. Rodger
Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the ____ day of _____, 2013, by
_____.

Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the ____ day of _____, 2013, by
_____.

Notary Public in and for the State of Texas

OWNERS' SIGNATURES ON SECOND AMENDED
DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS OF BRIARWOOD SUBDIVISION, SECTION II

Shirley Tyler
OWNER
Carol Lewis
OWNER

[Signature]
OWNER

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

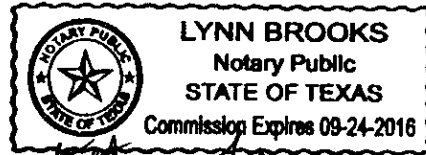
This instrument was acknowledged before me, on the 5th day of February 2013, by
Shirley Tyler

Lynn Brooks
Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February 2013, by
CAROL LEWIS

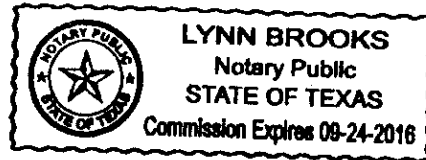


Lynn Brooks
Notary Public in and for the State of Texas

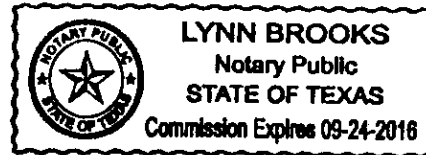
THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February 2013, by
Ralph Lewis



Lynn Brooks
Notary Public in and for the State of Texas



OWNERS' SIGNATURES ON SECOND AMENDED
DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS OF BRIARWOOD SUBDIVISION, SECTION II

George Cadenhead
OWNER

James Blanchard
OWNER

Virginia Cone
OWNER

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

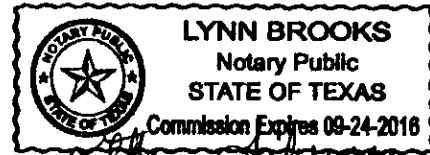
This instrument was acknowledged before me, on the 5th day of February 2013, by
George Cadenhead

Lynn Brooks
Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February 2013, by
VIRGINIA CONE

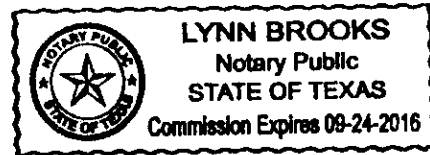


Lynn Brooks
Notary Public in and for the State of Texas

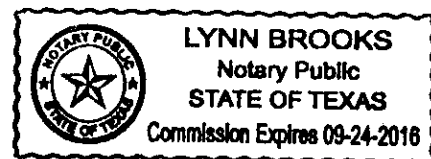
THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February 2013, by
JAMES BLANCHARD



Lynn Brooks
Notary Public in and for the State of Texas



OWNERS' SIGNATURES ON SECOND AMENDED
DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS OF BRIARWOOD SUBDIVISION, SECTION II

[Signature]
OWNER

[Signature]
OWNER

[Signature]
OWNER

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February, 2013, by
Ricky D. Ideus.

[Signature]
Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February, 2013, by
CARMEN MICKEL.

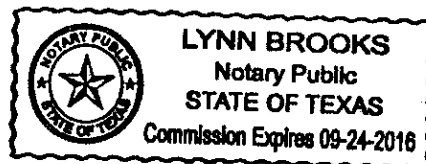
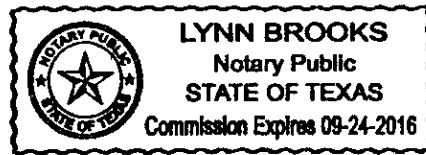
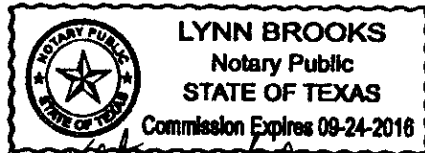
[Signature]
Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February, 2013, by
Susanna Gibson.

[Signature]
Notary Public in and for the State of Texas



OWNERS' SIGNATURES ON SECOND AMENDED
DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS OF BRIARWOOD SUBDIVISION, SECTION II

[Signature]
OWNER

OWNER

[Signature]
OWNER

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February, 2013, by
Winston Avera

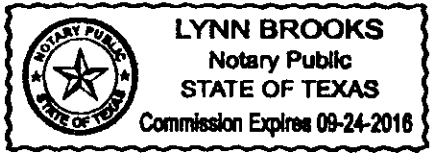
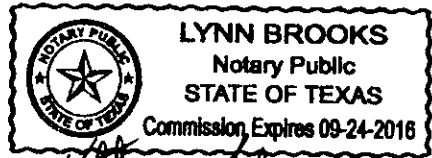
[Signature]
Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February, 2013, by
Connie Avera

[Signature]
Notary Public in and for the State of Texas



THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February, 2013, by

Notary Public in and for the State of Texas

OWNERS' SIGNATURES ON SECOND AMENDED
DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS OF BRIARWOOD SUBDIVISION, SECTION II

Barbara Blanchard
OWNER

Debby Hutchins
OWNER

Charles Hutchins
OWNER

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February 2013, by
BARBARA BLANCHARD

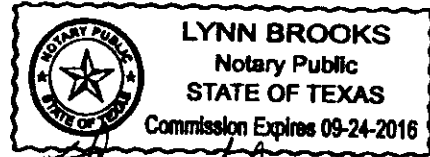
Lynn Brooks
Notary Public in and for the State of Texas

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February 2013, by
Charles Hutchins

Lynn Brooks
Notary Public in and for the State of Texas

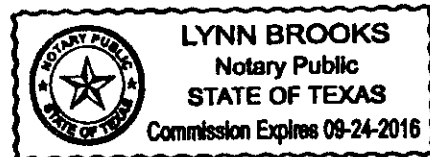
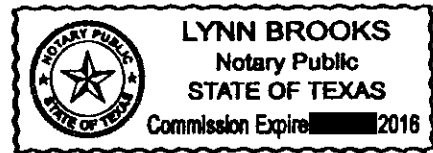


THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February 2013, by
Debby Hutchins

Lynn Brooks
Notary Public in and for the State of Texas



OWNERS' SIGNATURES ON SECOND AMENDED
DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS OF BRIARWOOD SUBDIVISION, SECTION II

Elizabeth Klinas
OWNER

Alice A. Rodgers
OWNER

[Signature]
OWNER

THE STATE OF TEXAS §

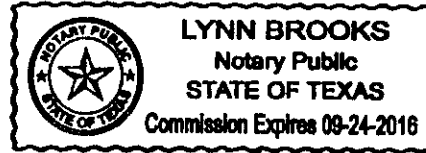
as proxy for Amy E Klinas
Janina Klinas

COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February 2013, by
Elizabeth Klinas.

[Signature]
Notary Public in and for the State of Texas

THE STATE OF TEXAS §

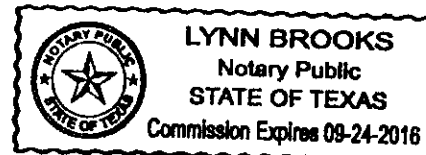


COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February 2013, by
Alice A. Rodgers.

[Signature]
Notary Public in and for the State of Texas

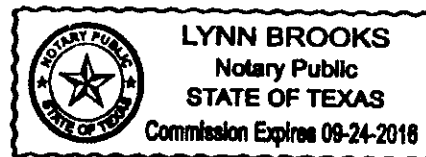
THE STATE OF TEXAS §



COUNTY OF BRAZORIA §

This instrument was acknowledged before me, on the 5th day of February 2013, by
GARY RODGERS.

[Signature]
Notary Public in and for the State of Texas

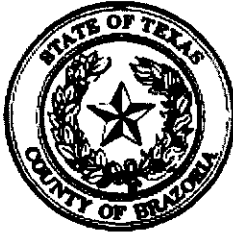


FILED and RECORDED

Instrument Number: 2013031332

Filing and Recording Date: 06/27/2013 03:33:28 PM Pages: 40 Recording Fee: \$170.00

I hereby certify that this instrument was FILED on the date and time stamped hereon and RECORDED in the OFFICIAL PUBLIC RECORDS of Brazoria County, Texas.



A handwritten signature in black ink that reads "Joyce Hudman".

Joyce Hudman, County Clerk
Brazoria County, Texas

ANY PROVISION CONTAINED IN ANY DOCUMENT WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE REAL PROPERTY DESCRIBED THEREIN BECAUSE OF RACE OR COLOR IS INVALID UNDER FEDERAL LAW AND IS UNENFORCEABLE.

DO NOT DESTROY - Warning, this document is part of the Official Public Record.

cclerk-idelma