

94-044368

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
SOUTHWYCK SECTION THREE, PHASE ONE

STATE OF TEXAS §
COUNTY OF BRAZORIA §

This declaration, made on the date hereinafter set forth by Southwyck Three, Ltd., a Texas Limited Partnership, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of that certain property described by the metes and bounds description attached hereto as Exhibit "A" and incorporated herein for all purposes ("Properties" or "Property"). Declarant intends to subdivide said Property into seventy-six (76) lots, which will be described as Lots 1-23 Block 1, Lots 1-47 Block 2, Lots 1-6 Block 3 Southwyck Section Three, Phase One pursuant to the Plat attached hereto as Exhibit "B" and incorporated herein for all purposes ("proposed Subdivision").

WHEREAS, it is the desire of Declarant to place certain restrictions, covenants, conditions, stipulations and reservations upon and against the Property in order to establish a uniform plan for the development, improvement and sale of such property, pursuant to the Final Plat as finally approved, and to insure the preservation of such uniform plan for the benefit of both the present and future owners of lots in said proposed Subdivision:

NOW, THEREFORE, Declarant hereby adopts, establishes and imposes upon the Property and the lots in SOUTHWYCK, SECTION THREE, and declares the following reservations, easements, restrictions, covenants and conditions, applicable thereto, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the land, which reservations shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest therein, or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I

Definitions

Section 1. "Master Association" shall mean and refer to Southwyck Community Association, Inc., a Texas non-profit corporation, its successors and assigns.

Section 2. "Village Association" shall mean and refer to Southwyck, Section I Homeowners' Association, Inc., a Texas non-profit corporation, its successors and assigns and any similar associations created for any subsequent subdivisions.

Section 3. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation and those having interest in the mineral estate.

Section 4. "Properties" shall mean and refer to that certain real property hereinbefore described, subject to the Reservations set forth herein and/or in the Subdivision Plats, and any additional properties made subject to the terms hereof pursuant to the provisions set forth herein.

Section 5. "Lot" and/or "Lots" shall mean and refer to any building plot of land as described above and in all plats annexed pursuant to Section 7 of Article VI hereof.

Section 6. "Village Common Area" shall mean all property owned by or under the jurisdiction of the Village Association for the common use and benefit of the owners, if any.

Section 7. "General Common Area" shall mean all property owned by or under the jurisdiction of the Master Association for the common use and benefit of the owners, if any.

Section 8. "Declarant" shall mean and refer to Southwyck Three, Ltd., a Texas Limited Partnership and its successors and assigns if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development or are so designated in writing by Declarant as the successors and assigns of all Declarant's rights hereunder.

Section 9. "Subdivision" shall mean and refer to the Properties and any additional properties which may hereinafter be brought within the scheme of this Declaration pursuant to the provisions set forth herein and hereafter brought within the jurisdiction of the Master Association.

Section 10. "Village Architectural Control Committee" shall mean and refer to the Village Architectural Control Committee provided for in Article IV hereof.

Section 11. "Master Architectural Control Committee" shall mean and refer to the Master Architectural Control Committee referred to in Article IV hereof.

Section 12. "Architectural Control Committees" shall mean and refer to the Village Architectural Control Committee and the Master Architectural Control Committee.

ARTICLE II

Reservations, Exceptions and Dedications

Section 1. Recorded subdivision maps of the Properties. The recorded subdivision maps of the Properties dedicate for use as such, subject to the limitations as set forth therein, the streets and easements shown thereon, and such recorded subdivision maps of the Properties further establish certain restrictions applicable to the Properties including without limitation certain minimum setback lines, and all dedications, limitations, restrictions and reservations shown on the recorded plats or replats of the subdivision are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant, conveying said property or any part thereof, whether specifically referred to therein or not.

Declarant shall have the right, but shall never be obligated, to resubdivide into Lots, by recorded plat or any other lawful manner, all or any part of the property contained within the outer boundaries of the Subdivision Plat and such Lots as replatted shall be subject to these restrictions as if such Lots were originally included herein. Any such replat must comply with all local and state, statutes, regulations and requirements.

Section 2. Easements. Declarant reserves for the public use the easements and rights -of-way as shown on the recorded subdivision maps of the Properties for the purpose of constructing, maintaining, and repairing a system of electric lighting, electric power, telegraph or telephone line or lines, gas, sewers, and any other utility Declarant sees fit to install in, across and/or under the Properties. Declarant reserves the right to make changes and additions to the above easements for the purpose of most efficiently and economically installing the improvements. Neither Declarant nor any utility company using the easements herein referred to shall be liable for any damages done by them or their assigns, their agents, employees, or servants, to fences, shrubbery, trees or flowers or any other property of the Owner of the land covered by said easements.

Section 3. Title subject to easements. It is expressly agreed and understood that the title conveyed by Declarant to any of the Properties by Contract, Deed or other conveyance shall be subject to any easement affecting same for roadways or drainage, water, gas, storm sewer, electric lighting, electric power, telephone, telegraph or other utility purposes. The owners of the respective lots shall not be deemed to separately own pipes, wires, conduits or other service lines running through their property which are utilized for or service other lots, but each Owner shall have an easement in and to the aforesaid facilities as shall be necessary for use, maintenance and enjoyment of his Lot.

ARTICLE III

Use Restrictions

Section 1. Single family detached: residential construction. No building shall be erected, altered, or permitted to remain on any Lot other than one detached single family dwelling unit for residential purposes only, and not to exceed two (2) stories in height. Each such dwelling on a plotted Lot shall have an attached or detached garage or carport for one (1) or more cars, but not more than three (3) cars; provided that the Architectural Control Committees may, in their discretion, permit the construction of a carport on a Lot (in lieu of or in addition to a garage) and/or garage for more than three (3) cars, such permission to be granted in writing as hereinafter provided. As used herein, the term "residential purposes" shall be construed to prohibit mobile homes or trailers being placed on the Lots, or the use of said Lots for garage apartments, or apartment houses; and no Lot shall be used for business or professional purposes of any kind, nor for any commercial or manufacturing purposes. No building of any kind with the exception of lawn storage or children's playhouses, shall ever be moved onto any Lot within said subdivision, it being the intention that only new construction be placed and erected thereon, except with the prior written consent of the Architectural Control Committees. A minimum of 50% of the first floor wall area to the top of the first floor window height and exclusive of openings shall be of masonry, masonry veneer, or stucco construction unless otherwise approved in writing by the Architectural Control Committees.

Section 2. Minimum square footage within improvements. Those lots described above as shown on the plat of Southwyck, Section Three are restricted to a single family detached dwelling with a minimum of twelve hundred (1,200) square feet of livable area, exclusive of open porches and garages, carports or parking spaces.

Section 3. Sidewalks. A concrete sidewalk four (4) feet wide shall be constructed parallel to the curb two (2) feet from the property line along the entire fronts of all lots. In addition thereto, four (4) foot wide sidewalks shall be constructed parallel to the curb two (2) feet from the property line along the entire side of all corner lots. The plans for each residential building on each of said Lots shall include plans and specifications for such sidewalks and same shall be constructed and completed before the main residence is occupied.

Section 4. Location of the improvements upon the Lot. No structure shall be located on any lot nearer to the front line or nearer to the street side line than the minimum building setback line shown on the recorded plats or replats; however, in no instance shall a building be located nearer to the front property line than twenty (20) feet unless approved in writing by the Architectural Control Committees. The main residential structure shall not be located on any lot nearer than ten (10) feet from the rear property line. Subject to the provisions of Section 5 below, no part of any house, building, carport or garage shall be located nearer than five (5) feet to an interior side lot line or ten (10) feet to any exterior lot line on a corner lot. For the purposes of this section, eaves, steps and unroofed terraces shall not be considered part of a building; provided, however, that this shall not be construed to permit any portion of the building on any lot to encroach upon another lot. Unless otherwise approved in writing by the Architectural Control Committees, each main residence building shall face the front building line.

Section 5. Composite building site. Subject to the approval of the Architectural Control Committees, any owner of one or more adjoining Lots or portions thereof may consolidate or redivide such Lots or portions into one or more building sites with the privilege of placing or constructing improvements on such resulting sites, in which case the front footage at the building setback lines shall be measured from the resulting property lines rather than from the Lot lines as indicated on the recorded plats. Any such resulting building site must have a frontage at the building setback line of not less than fifty-five (55) feet.

In the event an owner of one or more lots consolidates two or more lots into one composite building site, each composite building site so constituted shall be considered one lot for purposes of all restrictions, covenants and conditions imposed against the property, including, but not limited to maintenance assessments, membership in the Association and voting rights as set forth in Articles VI, VII, and VIII.

Section 6. Prohibition of offensive activities. No activity, whether for profit or not, shall be carried 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 may become, an annoyance or a nuisance to the neighborhood. The restriction is waived in regard to normal sales activities required to sell homes in the subdivision, the display of marketing signage, and the lighting effects used to display model homes.

Section 7. Use of temporary structures. No structure of a temporary character, whether trailer, basement, tent, shack, garage, barn or other outbuilding shall be maintained or used on any Lot at any time as a residence, or for any other purpose, with the exception of lawn storage or children's playhouses which have received Architectural Control Committee approval; provided, however, that Declarant reserves the exclusive right to erect, place and maintain such facilities in or upon any portions of the Properties as in its sole discretion may be necessary or convenient while selling Lots, selling or constructing residences and constructing other improvements upon the properties. Such facilities may include, but not necessarily be limited to, sales and construction offices, storage areas, model units, signs and portable storage facilities.

Section 8. Storage of automobiles, boats, trailers, recreational vehicles and other vehicles. No motor vehicle may be parked or stored on any part of any Lot, easement, right-of-way, common area or in the street unless such vehicle does not exceed either six feet six inches in height, and/or seven feet six inches in width and/or twenty-one feet in length and is concealed from public view inside a garage or other approved enclosure, except passenger automobiles, passenger vans (the term "passenger vans" specifically excludes motor homes and recreational vehicles), motorcycles, pick-up trucks, or pick-up trucks with attached-bed campers, that are in operating condition, having current license plates and inspection stickers, and are in daily use as motor vehicles on the streets and highways of the State of Texas and do not exceed either six feet six inches in height, and/or seven feet six inches in width and/or twenty-one feet in length.

No non-motorized vehicle, trailer, boat, marine craft, hovercraft, aircraft, machinery or equipment of any kind may be parked or stored on any part of any Lot, easement, right-of-way, or common area or in the street adjacent to such lot, easement, right-of-way, or

common area unless such object is concealed from public view inside a garage or other approved enclosure. The phrase "approved enclosure" as used in this paragraph shall mean any fence, structure or other improvement approved by the Architectural Control Committees. If a complaint is received about a violation of any part of this section, the Master Architectural Control Committee will be the final authority on the matter. This restriction shall not apply to any vehicle, machinery or maintenance equipment temporarily parked and in use for the construction, repair or maintenance of a house or houses in the immediate vicinity.

Section 9. Mineral Operation. No oil drilling, oil development operations, oil refining, quarrying or mining operation 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 10. 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 may be kept, provided that they are not kept, bred or maintained for commercial purposes. No more than two (2) of each specie of pet will be permitted on each Lot. If common household pets are kept, they must be confined to a fenced backyard (such fence shall encompass entire backyard) or within the house. When away from Lot, pet must be kept on a leash at all times. It is the pet owner's responsibility to keep the Lot clean and free of pet debris.

Section 11. Walls, fences and hedges. No hedge in excess of three (3) feet in height, walls or fence shall be maintained nearer to the front Lot line than the plane of the front exterior wall of the residential structure on such Lot. No side or rear fence, wall or hedge shall be more than eight (8) feet high. All fences must be constructed of wood or masonry at least six (6) feet in height, and no chain link fences shall be placed on any Lot without the express prior approval in writing of the Architectural Control Committees, such approval to be granted as hereinafter provided, except to enclose a swimming pool, if such chain link fence is not visible from any street. No alteration, removal or repair of the perimeter fence that is subject to the jurisdiction of the Master Association may be made without the prior written approval of the Master Association Architectural Control Committee. The Master Association is empowered to repair or replace any part of the perimeter fence within its jurisdiction and to charge the cost to any Lot owner whose neglect or fault required the repair or replacement. It shall be the responsibility of the Master Association to maintain the perimeter fence within

its jurisdiction so as to create a uniform appearance.

Section 12. Visual obstruction at the intersection of public streets. No object or thing which obstructs site lines at elevations between two (2) feet and eight (8) feet above the roadways within the triangular area formed by the intersecting street property lines and a line connecting them at points ten (10) feet from the intersection of the street property lines or extension thereof shall be placed, planted or permitted to remain on any corner lots.

Section 13. Lot maintenance. The owners or occupants of all Lots shall at all times keep all weeds and grass thereon cut in a sanitary, healthful and attractive manner, edge curbs that run along the property lines, and shall in no event use any Lot for storage of materials or equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted. All fences, if any, which have been erected on any Lot by Declarant or otherwise shall be maintained in good repair by owner and owner shall replace the same in event of partial or total destruction. The drying of clothes in full public view is prohibited and the owners 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 public view shall construct and maintain a drying yard or other suitable enclosure to screen the following from public view: the drying of clothes, yard equipment, or storage piles, which are incident to the normal residential requirements of a typical family. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste materials shall not be kept except in sanitary containers constructed of metal, plastic or masonry materials with sanitary covers or lids. Containers for the storage of trash, garbage or other waste materials shall be kept in a clean and sanitary condition and shall be stored out of public view. No building materials used in the construction of improvements erected upon any Lot may be placed upon such lot at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without undue delay, until the completion of the improvements, after which these materials shall either be removed from the Lot or stored in an approved enclosure on the Lot.

In the event of default on the part of the Owner or Owners of any Lot in observing the above requirements or any of them, such default continuing after Village Association has served ten (10) days written notice thereof, then Village Association, by and through its duly authorized agent may, without liability to the Owner or Occupant in trespass or otherwise, enter upon said Lot and cut the weeds and grass, edge the lawn around the curb, cause to

be removed garbage, trash or rubbish, or do any other thing necessary to secure compliance with these restrictions so as to place said Lot in a neat, attractive, healthful and sanitary condition. The Village Association 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 occupancy of the Property to pay for such work immediately upon receipt of the statement therefor. In the event of failure of the Owner or Occupant to pay such statement within fifteen (15) days from the date mailed, the amount thereof may be added to the annual maintenance charge provided for herein and such additional maintenance charge shall be governed by Article VII of these Restrictions.

Section 14. Signs, advertisements, billboards. Except for signs owned by Declarant or by builders advertising their models during the period of original construction and home sales, no sign, poster, advertisement or billboard or advertising structure of any kind other than a normal "For Sale" sign, not to exceed five (5) square feet in total size may be erected or maintained on any Lot in said Subdivision. Declarant, or its assigns, will have the right to remove any sign, advertisement, billboard, or advertising structure that does not comply with the above, and in so doing, shall not be subject to any liability for trespass or other tort in the connection therewith or arising with such removal.

Section 15. Maximum height of antenna. No radio or television aerial wires, radio or television antenna, or satellite dishes of any kind shall be maintained on any portion of any Lot that is visible from the front side of said Lot; nor shall any antenna of any style, to include satellite dishes, be permitted to extend beyond the roof line of the main residential structure on said Lot, nor be located behind the back building line of said Lot. No antenna of any style, including satellite dishes, or antenna wires shall be visible from the street which runs in front of said Lot or the street which runs on the side of any corner Lot.

Section 16. Enforcement of Deed Restrictions. Articles V and VI hereof provide for the formation of two associations, the Village Association and the Master Association. The purposes of the Associations, jointly, are to provide for protection, maintenance, preservation and architectural control of the residential Lots and Village Common Areas.

The Village Association is charged with enforcing the Deed Restrictions enumerated in Article III. The Village Association and each individual homeowner shall have the right to bring an action at law or in equity to enforce all restrictions, conditions, covenants, reservations, liens, and charges now or hereinafter imposed by the provisions hereof. The

Village Association shall be entitled to collect its costs, expenses and attorney's fees incurred in enforcing the Deed Restrictions from the Owner.

In the event the Village Association fails or refuses to enforce any of the restrictions, conditions, covenants, reservations, liens or charges now or hereafter imposed by the provisions hereof, then, in that event, the Master Association shall have the right to enforce same and to charge the Village Association all of its costs, expenses and attorney fees incurred in securing enforcement. The Village Association, in turn, shall have the right to collect said costs, expenses and fees from the Owner.

In the event Owner fails to reimburse Village Association for the costs, expenses, and attorneys fees incurred by Village Association or Master Association in securing enforcement, then such failure shall give rise to the same liability and lien rights and shall be subject to the same subordination as set forth hereinafter in the case of assessments.

Section 17. Private Utility Lines. All electrical, telephone, and other utility lines and facilities which are located on a Lot and are not owned by a government entity or a public utility company shall be installed in underground conduits unless otherwise approved in writing by the Architectural Control Committee.

ARTICLE IV

Village Architectural Control Committee:

Master Architectural Control Committee

Section 1. Approval of building plans. No building, fence, wall, improvement or other structure shall be commenced, erected, placed, or altered on any Lot nor shall any exterior addition to or change or alteration therein be made until the construction plans, specifications and a plot plan showing the nature, kind, shape, height, materials and location of same, have been approved in writing as to harmony of exterior design, color and location in relation to surrounding structures, topography and finished ground elevation, and as to compliance with minimum construction standards set by the Village Architectural Control Committee and approved by the Master Architectural Control Committee. A copy of the construction plans and specifications and a plot plan together with such information as may be deemed pertinent, shall be submitted to the Village Architectural Control Committee, or its designated representative prior to commencement of construction. The Village Architectural Control

Committee may require the submission of such plans, specifications, and plot plans, together with such other documents as it deems appropriate, in such form and detail as it may elect at its discretion. The Village Architectural Control Committee shall have the authority to approve construction of any improvement on any Lot, and its judgement shall be subject to the review and approval of the Master Architectural Control Committee, whose judgement shall be final and conclusive. The Master Architectural Control Committee shall have the exclusive and complete authority to approve any construction, alteration or repair to the perimeter fence and any other property within its jurisdiction and no such work will be performed without this committee's prior written approval. The approval or lack of approval by the Architectural Control Committee shall not be deemed to constitute any warranty or representation by such Committee including, without limitation, any warranty or representation to fitness, design, or adequacy of the proposed construction or compliance with applicable statutes, codes and regulations.

Section 2. Approval of landscaping. No landscaping, including, but not limited to trees and shrubs shall be planted, installed or removed on any Lot without first obtaining written approval of the Village Architectural Control Committee, which approval shall be subject to review by the Master Architectural Control Committee whose judgement thereon shall be final and conclusive. All landscaping plans shall be submitted to the Village Architectural Control Committee for approval, said approval subject to the review of the Master Architectural Control Committee, whose judgement shall be final and conclusive, prior to planting, installation or removal of any landscaping. Said committees, or their duly authorized representative, shall have the right and power to approve, disapprove or modify any such landscaping plans which, at the sole and uncontrolled discretion and opinion of the Architectural Control Committees, or their authorized representative, are or are not suitable or desirable for purely aesthetic or any other reasons, and the approval or disapproval of the committees, or their authorized representative, shall be final, binding and conclusive.

Section 3. Denial of Request. Any request for approval shall be deemed to have been denied in the event of either (a) written notice of denial from the Architectural Control Committee (Master or Village) or (b) failure by the applicable Architectural Control Committee to respond to the request within thirty (30) days after the receipt of any such request.

Section 4. Committee Membership. The Village Architectural Control Committee for Section Three shall be initially composed of ALAN BAUER, CLINTON WONG, and PHILLIP

PEACOCK who by majority vote of such Committee may designate a representative to act for such Committee. At any time, the majority of the votes in the Village Association shall have the power through a duly recorded instrument to change the membership of that Association's Committee or to withdraw from the Committee or restore to it any of its powers and duties. The initial address of the Village Architectural Control Committee is 7676 Woodway, Suite 238, Houston, Texas 77063.

When the last stage of development contemplated hereunder by Declarant has been subdivided and seventy-five percent (75%) of the Class B Lots in the last state of development have been converted to Class A Lots or on January 1, 2022, whichever event occurs first, then the majority of votes in the Master Association shall have the power, through a duly recorded instrument, to change the membership of that Association's Architectural Control Committee or to withdraw from the Committee or restore it to any of its powers and duties. The current address of the Master Architectural Control Committee is c/o Capital Consultants Management Corporation, 10777 Westheimer, Suite 610, Houston, Texas 77042.

Section 5. Minimum construction standards. The Village Architectural Control Committee may from time to time promulgate an outline of minimum acceptable construction standards subject to the final approval of the Master Association Architectural Control Committee; provided, however, that such outline will serve as a minimum guideline and the committees shall not be bound thereby.

Section 6. Term The duties and powers of the Village Architectural Control Committee and of the designated representative shall cease on and after ten (10) years from the date of its creation. The duties and powers of the Master Architectural Control Committee and of the designated representative shall cease on and after thirty (30) years from the date of its creation. Thereafter, the approval described in this covenant shall not be required, and all powers vested in said Committees by this covenant shall cease and terminate; provided, that any time after January 1, 2002 for the Village Architectural Control Committee and after January 1, 2022 for the Master Architectural Control Committee, whether or not the terms of the committees specified above shall have expired, by a two-thirds (2/3) vote of the members present and voting, the Board of Directors of the Village Association may assume the duties and powers of the Village Architectural Control Committee, and the Board of Directors of the Master Association may assume the powers and duties of the Master

Architectural Control Committee. Thereafter the Boards of Directors shall have all of the rights, benefits and powers provided herein for the committees.

Section 7. Variances. Article III of this Declaration contains a number of provisions wherein the Village Architectural Control Committee, subject to review by the Master Architectural Control Committee, is expressly granted the authority, in its discretion, to permit variances from the effect of a particular restrictive covenant. The Village 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, and specifications, plot plans and samples of materials) as it shall deem appropriate, in connection with its consideration of a request for a variance. If the Village Architectural Control Committee shall approve such a request for a variance and the Master Architectural Control Committee reviews and approves same, the Village 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 Village Architectural Control Committee to permit the variance, describing (when applicable) the conditions on which the variance have been approved (including, as examples but without limitation, the type of alternate materials to be permitted, the alternate fence height approved or specifying the location, plans and specifications applicable to an approved carport), and signed by a majority of the then members of the Village Architectural Control Committee (or by the Committee's designated representative if one has been designated under the authority contained in Section 2 above). 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 Village Architectural Control Committee; or (b) failure by the Village Architectural Control Committee to respond to the request for variance. In the event the Architectural Control Committees or any successor to the authority thereof shall not then be functioning, and/or the terms of the Architectural Control Committees shall have expired and the Board of Directors of the Village and Master Associations 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 the Declarant that no variances be available except in the discretion of the Architectural Control Committees or, if they shall have succeeded to the authority of the Architectural

Control Committees in the manner provided herein, the Board of Directors of the Village Association and the Master Association.

Section 8. Master Architectural Control Committee Final Authority. The foregoing sections of this Article IV impose and grant duties and powers to the Village Architectural Control Committee and the Master Architectural Control Committee, and provide that both Architectural Control Committees have the right to approve construction plans, to grant variances and to generally control the construction of improvements and landscaping on the property.

In the event of a conflict between the Village Architectural Control Committee and the Master Architectural Control Committee as to any of the duties and powers imposed and granted in the foregoing sections of this Article IV, the decision of the Master Architectural Control Committee shall prevail.

ARTICLE V

SOUTHWYCK SECTION ONE HOMEOWNER'S ASSOCIATION

Section 1. Purpose. The purpose of the Village Association shall be to provide for protection, maintenance, preservation and architectural control of the residential Lots within the subdivision and the Village Common Area, if any.

Section 2. Membership and voting rights. Every owner of a Lot in Southwyck Section Three, whose lot is subject to a maintenance charge assessment by the Village Association shall be a Member of the Village Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No owner shall have more than one membership.

Section 3. One Class of Membership. The Village Association shall have one class of voting membership. Owners as defined in Section 3 of Article I 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 among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Section 4. Non-Profit Corporation. SOUTHWYCK SECTION I HOMEOWNERS' ASSOCIATION, INC., a non-profit corporation, has been organized; and it shall be governed by the Articles of Incorporation of said Village Association; and all duties, obligations, benefits, liens and rights hereunder in favor of the Village Association shall vest in said corporation.

Section 5. By-Laws. The Village Association may make whatever rules or bylaws it may choose to govern the organization; provided, however, that same are not in conflict with the terms and provisions thereof.

Section 6. Inspection of Records. The members of the Village Association shall have the right to inspect the books and records of the Village Association at reasonable times during normal business hours.

ARTICLE VI

SOUTHWYCK COMMUNITY ASSOCIATION, INC.

Section 1. Purpose, membership, and voting rights. The purposes of the Master Association are to provide maintenance and control of all General Common Areas of the properties which include, without limitations, the perimeter fences around major streets, main esplanades and to provide for the maintenance, preservation and architectural control of the residential Lots concurrently with the Village Association and exclusively in regard to the General Common Areas. In the event of a conflict between the Village Association and the Master Association as to whether an amenity in the properties is a General Common Area, the decision of the Master Association shall prevail. General Common Areas include, without limitation, amenities that are intended to serve more than one subdivision. Every owner of a Lot subject to a maintenance charge assessment by the Master Association shall be a member of the Master Association. Membership shall be appurtenant to and may not be separated from any Lot which is subject to assessment. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No owner shall have more than one membership.

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

Class A. Class A members shall be owners as defined in Section 3 of Article I, with the exception of the 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

among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for any Lot owned prior to January 1, 2022 that may be subject to the jurisdiction of the Master Association. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (b) on January 1, 2022

The Class A and Class B members shall have no rights as such to vote as a Class, except as required by the Texas Non-Profit Corporation Act, and both classes shall vote together upon all matters as one group.

Section 3. Non-Profit Corporation. SOUTHWYCK COMMUNITY ASSOCIATION, INC., a non-profit corporation, has been organized; and it shall be governed by the Articles of Incorporation of said Master Association; and all duties, obligations, benefits, liens and rights hereunder in favor of the Master Association shall vest in said corporation.

Section 4. By-Laws. The Master Association may make whatever rules or bylaws it may choose to govern the organization; provided, however, that same are not in conflict with the terms and provisions hereof.

ARTICLE VII

Maintenance Assessments

Section 1. The Maintenance Fund. (a) Village Association: All funds collected as hereinafter provided for the benefit of the Village Association, from the regular and/or special maintenance charges, for capital improvements, shall constitute and be known as "Maintenance Fund"; each Village Association having and maintaining a separate Maintenance Fund. The assessments levied by the Village association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of Village Common Areas, if any, except the General Common Areas which are within the jurisdiction and responsibilities of the Master Association. The responsibilities of the Village Association shall include, by way of example but without

limitation, at its sole discretion, any and all of the following: maintaining parkways, repair of the walkways, steps, entry gates, or fountain areas, if any; maintaining rights-of-way, easements, esplanades and other public areas, if any; construction and operation of street lights; purchase and/or operating expenses of recreation areas, if any; payment of all legal and other expenses incurred in connection with the enforcement of all recorded charges and assessments, covenants, restrictions, and conditions affecting the Properties to which the maintenance fund applies; payment of all reasonable and necessary expenses in connection with the collection and administration of the maintenance charge and assessment; employing policemen and watchmen; if desired, caring for vacant Lots and doing any other thing necessary or desirable in the opinion of the Village Association to keep the Properties in the subdivision neat and in good order, or to which is considered of general benefit to the owners or occupants of the Properties. It is understood that the judgement of the Village Association in the expenditure of such funds shall be final and conclusive so long as such judgement is exercised in good faith.

(b) Master Association. All funds collected by the Master Association from its regular and/or special maintenance charges shall constitute and be known as the "Master Association Maintenance Fund." The assessments levied shall be used exclusively to effectuate the purposes of the Master Association as stated in Article VI, Section 1 above. The Board of Directors of the Master Association shall hereafter determine the amount of such assessment to be charged against each Lot Owner, but in no event shall such assessments be greater than the amounts of assessments provided in Section 5 below. The Master Association shall have all remedies and all lien rights set forth herein against the Owners and Lots for delinquent assessments owed to itself and to the Village Association.

Section 2. Creation of the lien and personal obligation of assessments. Each Lot in the Properties is hereby subjected to the annual maintenance charges as set out in Section 1., Subparagraphs (a) and (b), and the Declarant, for 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, is deemed to covenant and agree to pay to the Master and Village Associations: (1) Maintenance assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The maintenance assessments and special assessments together with the interests, costs, and reasonable attorneys fees, shall be a charge on the Lot and shall be

a continuing lien upon the property against which such assessments are made. All such assessments as to a particular property, together with interest, late charges, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessments fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 3. Rate of assessment. The maintenance assessments set out in Section 1 of this Article shall be paid by the Owner or Owners of each Lot in the Village Association, in semi-annual installments on or before every January 15 and July 15 following conveyance of the Lot to an Owner. The maintenance charge on Class B Lots and/or Lots owned by the Declarant or Builder shall be fifty percent (50%) of the assessments for Class A Lots per month and shall begin to accrue on a monthly basis on each such Lot on the date the first house is conveyed to an Owner. The entire accrued maintenance assessments as to Class B Lots and/or Declarant or Builder owned Lots shall become due and payable in full, calculated through the last day of the month in which title is transferred, by reason of the Owner's purchase of a residence thereon. The maintenance charge applicable to Owner for the first semi-annual payment period or fraction thereof shall be the number of months the lot has been owned by an Owner (Class A) times the monthly assessment rate and shall be payable on either January 1 or July 1, whichever occurs first, of the succeeding semi-annual payment period. The semi-annual periods for which maintenance charges shall be levied shall be January 1 through June 30 and July 1 through December 31, with payment being due within fifteen (15) days after the end of each such period, as described above. The rate at which each Lot shall be assessed as to the maintenance assessment set out in Section 1, Subparagraph (a) shall be determined annually and may be adjusted from year to year by the Board of Directors of the Village Association as the needs of the subdivision may, in the judgement of the Board of Directors of the Village Association, require; the rate at which each Lot shall be assessed as to the maintenance assessment set out in Section 1, Subparagraph (b) shall be determined annually and may be adjusted from year to year by the Board of Directors of the Master Association as the needs of the subdivision(s) may, in the judgement of the Board of Directors of the Master Association, require; provided that such assessments shall be uniform. The Master Association and Village Association may collect special assessments as well as annual assessments above described by majority vote of its members

at a meeting duly called for that purpose.

Section 4. Collection of Maintenance Assessments. The Master Association shall have the sole and exclusive right and obligation to bill and collect both maintenance assessments set forth in Section 1, Subparagraph (a) and Subparagraph (b).

The Village Association shall determine its annual assessment rate per Lot and shall provide said assessment rate to the Master Association on or before November 1 of each year. In the event Village Association fails to provide Master Association with said assessment rate on or before November 1 of each year, the Master Association shall use Village Association's prior year's assessment rate for purposes of billing the Owners and Village Association shall not be entitled to a different rate and shall be estopped from claiming a different rate or amount. The Village Association shall be charged with the obligation and duty to send written notice to each Owner of its annual assessment rate for the forthcoming year on or before December 1 of each year.

All maintenance assessments for each of the properties collected by the Master Association shall be first applied to the Master Association maintenance assessment as set out in Section 1, Subparagraph (a).

Section 5. Maximum annual assessment. (a) Village Association Maintenance Fund: Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual Village Association maintenance assessment shall be twenty dollars (\$20.00) per lot, per month. 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 not more than ten percent (10%) above the maximum assessment of the previous year without a vote of the membership. The maximum annual assessment may be increased above the ten percent (10%) increase described only by approval of two-thirds (2/3) of each class of Members in the association present and voting in person or by proxy, at a meeting duly called for this purpose. The Board of Directors of the Village Association may fix the annual assessment in an amount not in excess of the maximum, and shall fix the amount of the annual assessment against each Lot at least sixty (60) days in advance of the first semi-annual assessment period, which shall begin on the first day of January each year. Written notice of the annual assessment shall be sent to every Owner subject thereto on or before December 1 of each year. The dates shall be established by the Board of Directors. (b) Master Association Maintenance Fund: Until January 1 of the year immediately following the

conveyance of the first Lot to an Owner, the maximum annual Master Association maintenance assessment shall be forty dollars (\$40.00) per Lot, per month. The maximum annual assessment may be increased year to year not more than ten percent (10%) above the maximum assessment for the previous year without a vote of the membership. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above the ten percent (10%) increase described above only by approval of two-thirds (2/3) of each class of Members in the Association present and voting in person or in proxy, at a meeting duly called for this purpose. The Board of Directors of the Master Association may fix the annual assessment at an amount not in excess of the maximum, and shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of the first semi-annual assessment period, which shall begin on the first of January of each year.

Section 6. Effect of nonpayment of assessments. Any assessment not paid within thirty (30) days of the due date shall bear interest at the rate of ten percent (10%) per annum. The Master or Village Association may in addition charge a late charge for assessments paid more than fifteen (15) days after the due date. The Master Association may bring an action at law against the Owner personally obligated to pay same, or foreclose the liens against the property. Interests, costs, late charges and attorneys fees incurred in any such collection action shall be added to the amount of such assessment or charge. An Owner, by his acceptance of a deed to a lot, hereby expressly vests in the Master or Village Association and its agents, the right and the power to bring all actions against such owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for enforcement of such liens, including, specifically, non-judicial foreclosure pursuant to Article 51.002 of the Texas Property Code and each such owner expressly grants to the Association a Power of Sale in connection with said lien. The Master Association shall have the right and power to appoint an agent or trustee to act for and in behalf of the Association to enforce the lien. No owner may waive or otherwise escape liability for the assessments provided herein by non-use of the facilities or services provided by the Village or Master Associations or by abandonment of his lot.

Section 7. Subordination of the lien to mortgages. To secure the payment of the Maintenance Fund and the Master Association Maintenance Fund and all annual and special assessments established hereby and to be levied on individual residential Lots, there is hereby

reserved in each Deed (whether specifically stated therein or not) by which the Declarant shall convey such lots, a Vendor's Lien and a Contract Lien for benefit of the Village and Master Associations, said Liens to be enforceable as set forth in Article VII, Section 6 hereof by the Master Association on behalf of such beneficiary; provided, however, that each such lien shall be secondary, subordinate and inferior to all liens, present and future given, granted or created by or at the instance and request of the Declarant or the Owner of any such Lot to secure the payment of monies advanced on account of the purchase price and/or the construction of improvements on any such Lot to the extent of any such Maintenance Fund charge or annual or special assessment accrued and unpaid prior to foreclosure of any such purchase money lien or construction lien; and further provided that as a condition precedent to any proceeding by the Master Association to enforce such lien upon any Lot upon which there is an outstanding valid and subsisting first mortgage lien, for the aforesaid purpose or purposes, the Master Association shall give the holder of such first mortgage lien sixty (60) days notice of such proposed action, which notice shall be sent to the nearest office of such first mortgage holder by prepaid U. S. Registered Mail, and shall contain a statement of the delinquent maintenance charges or annual or special assessments upon which the proposed action is based. Upon the request of any such first mortgage lienholder, the Master Association shall acknowledge in writing its obligation to give the foregoing notice with respect to the particular Lot covered by such mortgage lien to the holder thereof. The sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payment which became due prior to such sale or transfer.

Section 8. Owner's Easement and Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the General Common Areas and the Village Common Areas, if any, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

A. The right of the Master Association and the Village Association to charge reasonable admission and other fees for the use of designated recreational facilities situated upon the General Common Areas and the Village Common Area, if any, respectively that the Owners may elect to use; failure of Owner to pay such fees after having made such election shall give rise to the same liability and lien rights as set forth above, and shall be subject to the same subordination as set forth hereinabove in the case of assessments.

B. The right of the Master Association and the Village Association to suspend the

voting rights and the right to use the General Common Areas and the Village Common Areas, if any, respectively, by an Owner for any period during which an assessment against his Lot remains unpaid, and to publish rules and regulations for the use of the Common Areas within their jurisdiction, including the right of suspension of the right and easement for a period not to exceed sixty (60) days for any infraction of the Association's published rules and regulations.

C. The right of the Master Association and the Village Association, respectively, to dedicate or transfer all or any part of the General Common Areas and the Village Common Areas, if any, to any public agency, authority or utility for such purposes and subject to such conditions as may be placed upon the Master Association and/or the Village Association or any portion of the General Common Areas or the Village Common Areas, if any, to the Master Association or the Village Association, respectively. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each Class of members agreeing to such dedication or transfer has been recorded.

D. The right of the Master Association and the Village Association, respectively, to borrow money, and with the assent of two-thirds (2/3rds) of the membership of the respective Association, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the General Common Areas or the Village Common Area, if any, and the facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE VIII

Additions to Scheme of Declaration

Section 1. Additions to Existing Property. Additional lands may become subject to the scheme of this Declaration in the following manner:

(a) Additions by Declarant: Additional land contiguous to Southwyck, Section Three, may be annexed by the Declarant without the consent of members within thirty (30) years of the date of this instrument provided that the FHA and VA determine that the annexation is in accord with the general plan heretofore approved by them. Any additions authorized under this and the succeeding subsections, shall be made by filing of record a Declaration of Covenants and Restrictions with respect to the additional property or properties which shall

extend the scheme of the covenants, conditions and restrictions of this Declaration to such Property. Such Declaration must impose annual maintenance charges and assessment on the property covered thereby, on a uniform, per Lot basis, substantially equivalent to the maintenance charges and assessments imposed in this Declaration, and may contain such complimentary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be applicable to the additional lands, including but not limited to the creation of a village association for that land.

(b) Other Additions. Upon the approval of the Board of Directors of the Village Association and the Master Association, in their sole discretion, the Owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Master and Village Associations may file of record an Annexation Agreement and Declaration of Covenants and Restrictions upon the satisfaction of the conditions specified in subsection (a) above.

(c) Mergers. Upon a merger or consolidation of any of the Associations with another association, the Association's properties, rights, and obligations may be transferred to another surviving or consolidated association, or, alternatively, the properties, rights, and obligations of another association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association shall administer the covenants and restrictions established by this Declaration and all Supplemental Declarations, together with the covenants and restrictions applicable to the properties of the other association as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration or any other Supplemental Declaration.

ARTICLE IX

General Provisions

Section 1. Term. These covenants shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of forty (40) years from the date these covenants are recorded, after which time such covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by a majority of the then owners of the Lots has been recorded agreeing to change or terminate said covenants in whole or in part. The terms and conditions of these restrictions may be

amended at any time when an instrument setting forth such changes and signed by the owners of at least two-thirds (2/3rds) of the Lots within Southwyck, Section Three, Phase One, is placed on record in the real property records of Brazoria County, Texas. Upon any violation or attempt to violate any the covenants herein, it shall be lawful for the appropriate association or the other Lot owners to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them from doing so or to recover damages or other dues for such violations. Failure by either Association or by any Owner to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Conflict. In the case of any conflict between the Articles of Incorporation of the Village Association or the Master Association and this Declaration of Covenants, Conditions and Restrictions, the Declaration of Covenants, Conditions and restrictions shall control, and in the case of any conflict between the By-Laws of the Village Association or the Master Association and this Declaration of Covenants, Conditions and Restrictions, the Declaration of Covenants, Conditions and Restrictions shall control.

Section 3. Severability. Invalidation of any one of these covenants by judgement or other court order shall in no way effect any of the other provisions which shall remain in full force and effect.

Section 4. FHA / VA Approval. So long as there is a Class B membership in the Master Association, the following actions will require the prior approval of the Federal Housing Administration and/or the Veteran's Administration: Annexation of additional properties, mergers and consolidations, mortgaging of General Common Areas, dedication of General Common Areas, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Lienholders of the above described property join in the execution hereof to evidence their consent hereto, and hereby subordinate their liens to the reservations, easements, covenants, restrictions, changes and conditions hereof.

EXECUTED this 12th day of DECEMBER, A.D. 1994

ATTEST:

SOUTHWYCK THREE, Ltd., a Texas Partnership
By: Landstar, Inc.
General Partner

By: Phillip Peacock
Phillip Peacock
Secretary

By: Clinton F. Wong
Clinton F. Wong, President

LIENHOLDER:

COMPASS BANK

By: Ray Stauffacher
Ray Stauffacher
Senior Vice President

Approved by SOUTHWYCK LIMITED,
Declarant of Southwyck Section II
Phase A

SOUTHWYCK LIMITED., a Texas Partnership
By: GREATMARK INTERNATIONAL, INC.
General Partner

ATTEST:

By: Phillip Peacock
Phillip Peacock
Secretary

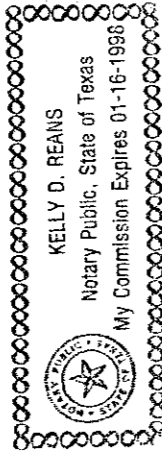
By: Clinton F. Wong
Clinton F. Wong
President

STATE OF TEXAS §

COUNTY OF HARRIS §

BEFORE ME, the undersigned authority on this day personally appeared Clinton F. Wong, President of Landstar, Inc., General Partner of Southwyck Three, Ltd., known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

SUBSCRIBED AND SWORN to before me this 12TH day of DECEMBER, 1994.



Kelly D. Reans
Notary Public in and for the State of Texas

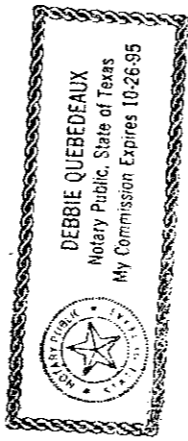
STATE OF TEXAS §

COUNTY OF HARRIS §

BEFORE ME, the undersigned authority on this day personally appeared Ray Stoutfacher, Sr. V.P. of COMPASS BANK, as lien holder, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

SUBSCRIBED AND SWORN to before me this 12 day of December, 1994.

Debbie Quebedeaux
Notary Public in and for the State of Texas

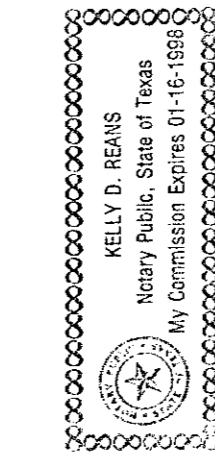


STATE OF TEXAS §

COUNTY OF HARRIS §

BEFORE ME, the undersigned authority on this day personally appeared Clinton F. Wong, President of Greatmark International, Inc., General Partner of Southwyck Limited known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

SUBSCRIBED AND SWORN to before me this 12TH day of DECEMBER, 1994.



Kelly D. Reans
Notary Public in and for the State of 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 OFFICIAL RECORD at the time and date as stamped hereon by me.



Dolly Bailey
County Clerk of Brazoria Co., TX

After Recording Return To:

Southwyck Three, Ltd.
7676 Woodway, Suite 238
Houston, Texas 77063

FILED FOR RECORD
94 DEC 15 AM 11:25

Dolly Bailey
COUNTY CLERK
BRAZORIA COUNTY, TEXAS