



SECTION 5. "Lot" shall mean and refer to any of the numbered lots shown on the plat of the Subdivision intended for the construction of a residence, excluding all reserve tracts shown on the plat, but including Lots hereafter created by a replat of any reserve tracts.

SECTION 6. "Master Architectural Control Committee" shall mean the committee referred to by such name in the various restrictive covenants instruments applicable to the property within the jurisdiction of the Master Association, including the Properties, which has the rights hereinafter specified.

SECTION 7. "Master Association" shall mean and refer to Southwyck Community Association, Inc., a Texas non-profit corporation, its successors and assigns.

SECTION 8. "Master Association Members" shall mean and refer to every person or entity who holds a membership in the Master Association.

SECTION 9. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot within the Properties, including contract sellers, but excluding any person or entity who holds an interest merely as security for the performance of an obligation or those owning an easement right, a mineral interest, or a royalty interest.

SECTION 10. "Properties" shall mean and refer to the real property within the jurisdiction of the Village Association, including the property within the Southwyck, Section I", Southwyck, Section VII, and Southwyck, Section VIII subdivisions, the property within the Subdivision, and any additional property hereafter added to the jurisdiction of the Village Association.

SECTION 11. "Street" shall refer to any publicly dedicated street, drive, boulevard, road, alley, lane, avenue, or thoroughfare.

SECTION 12. "Village Association" shall mean and refer to Southwyck, Section IV Homeowners' Association, a Texas non-profit corporation, its successors and assigns.

SECTION 13. "Village Common Area" shall mean and refer to all properties, real or personal, owned, leased or used by the Village Association for the common use and enjoyment of the Association Members.

ARTICLE II  
ARCHITECTURAL CONTROL COMMITTEES

SECTION 1. CREATION. There is hereby created the Southwyck, Section 9 Architectural Control Committee (herein referred to as the "Village Committee"). No person serving on the Village

Committee shall be entitled to compensation from the Association for services performed, however, the Village Committee may employ one or more architects, engineers, attorneys, or other consultants to assist the Village Committee in carrying out its duties hereunder, and the Village Association shall pay such consultants for services rendered to the Village Committee. The members of the Village Committee shall be those individuals who are serving from time to time as members of the Board of Directors of the Village Association.

SECTION 2. POWERS OF THE VILLAGE COMMITTEE. No building, structure or other improvements shall be constructed on any Lot, and no exterior alteration therein shall be made until the site plan and the final working plans and specifications have been submitted to and approved in writing by majority vote of the Village Committee as to conformity with the restrictions herein contained and harmony of external design and location in relation to existing structures and topography. The Village Committee shall have the right to specify minimum construction standards or requirements which shall be subject to approval by the Master Architectural Control Committee, for improvements, minimum setback lines, the location, height, and extent of fences, walls, or other screening devices, the orientation of structures with respect to streets, walks, paths and structures on adjacent property and shall have the right to limit the number of acceptable exterior materials and finishes that may be utilized in construction or repair of improvements. The Village Committee shall have full power and authority to reject any site plan or final working plans and specifications that do not comply with the restrictions herein contained or that do not meet its minimum construction or architectural design requirements or that, in the sole and uncontrolled discretion and opinion of the Village Committee, will not be compatible with the overall character and aesthetics of the Subdivision.

Subject to the provisions of Section 5 of this Article, the Village Committee shall have the right, exercisable at its sole discretion, to grant variances to certain restrictions in specific instances where the Village Committee in good faith deems that such variance does not adversely affect the architectural and environmental integrity of the Subdivision. The Village Committee may require the submission to it of such documents and items as it shall deem appropriate in connection with its consideration of a such request for a variance. If the Village Committee shall approve such request for a variance, it shall evidence such approval, and grant its permission for such variance, only by written instrument addressed to the Owner of the property relative to which such variance has been requested, describing the applicable restriction(s) and the particular variance requested, expressing the decision of the Village Committee to permit the variance, and describing (when applicable) the conditions on which the variance has been approved. Any request for a variance shall be deemed to have been disapproved in the event of either (a) written notice of

disapproval from the Village Committee or (b) failure by the Village Committee to respond to the request for variance.

The Village Committee may, at its discretion, grant the approval required by this Article II for one site plan and one set of plans and specifications submitted by a Builder for improvements on multiple Lots, and such approval shall be effective for each Lot on which such improvements are constructed.

SECTION 3. LANDSCAPING APPROVAL. To preserve the aesthetic appearance of the Subdivision, no landscaping, clearing, grading, excavation, or filling of any nature whatsoever shall be implemented and installed on a Lot by any Owner unless and until the plans therefor have been submitted to and approved in writing by the Village Committee.

SECTION 4. LIMITATION OF LIABILITY. The Village Committee has no liability or obligation whatsoever in connection with any plans and/or specifications and no responsibility for the adequacy thereof or for the construction of any improvements contemplated by any such plans and/or specifications. The Village Committee has no duty to inspect any improvements; and, if the Village Committee should inspect any improvements, the Village Committee shall have no liability or obligation to any party arising out of such inspection. The Village Committee expressly shall have no liability or responsibility for defects in or omissions from any plans and/or specifications or for defects in or omissions from the construction of any improvements. Notwithstanding any covenant, condition or term contained in this Declaration or provision of the By-Laws of the Village Association to the contrary, the Village Committee shall not have any liability to any Owner arising or resulting from any act or omission of the Village Committee taken or omitted pursuant to this Declaration or the By-Laws of the Village Association. Each Owner by accepting a conveyance of any Lot or of any portion of the Property conclusively shall be deemed to have unconditionally and irrevocably waived all claims against the Village Committee arising or resulting from acts or omissions pursuant to this Declaration or the By-Laws of the Village Association.

SECTION 5. MASTER ARCHITECTURAL CONTROL COMMITTEE. The Master Architectural Control Committee shall have the authority to approve minimum construction standards or requirements adopted by the Village Committee as stated in Section 2 above. The Master Architectural Control Committee shall also have exclusive and complete authority to approve the construction, alteration or repair of any fences or walls constructed on the perimeter of the Subdivision and no such work shall be performed without such committee's prior written approval of the plans for such work which shall be submitted in accordance with procedures established by the Master Architectural Control Committee. In addition to the foregoing, the Master Architectural Control Committee shall be the final authority on landscaping in the property within the

jurisdiction of the Master Association and shall have the right to review the decisions of the Village Committee concerning landscaping plans submitted pursuant to Section 3 above. The judgment of the Master Architectural Control Committee with respect to the approval or disapproval of plans for landscaping including, without limitation, the planting, installation, or removal of trees and shrubs on any Lot in the Subdivision shall be final and conclusive and binding on all parties. The Village Committee shall have the right, at its option, to delegate all of its rights and authority to approve plans as herein specified to the Master Architectural Control Committee. In the event such rights are delegated to it, the Master Architectural Control Committee may exercise all of the powers granted in this Article to the Village Committee.

Article VII of this Declaration contains a number of provisions where the Village Committee is expressly granted the authority, in its discretion, to permit a variance from the effect of a particular restrictive covenant. In addition, the Village Committee is granted a general right to grant variances in Section 2 of this Article. The right of the Village Committee to grant such variances is subject to review by the Master Architectural Control Committee unless the Village Committee has delegated all of its rights to the Master Architectural Control Committee. If the Village Committee reviews a request for a variance and wishes to approve same, it shall submit the request and its recommendation of approval to the Master Architectural Control Committee and the variance shall be granted by the Village Committee only if the Master Architectural Control Committee grants its approval.

#### ARTICLE III. ASSOCIATIONS

SECTION 1. MEMBERSHIP. Every Owner of a Lot which is subject to assessment shall be a member of the Master Association and the Village Association. Membership in such associations shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

SECTION 2. VOTING. The Master Association and the Villages Association each have one (1) class of voting membership. All Owners, including the Declarant, shall be entitled to one vote for each Lot owned within the respective jurisdictions of such associations. When more than one person holds an interest in any Lot, all such persons shall be members of such associations. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

#### ARTICLE IV. COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. Declarant, for each Lot owned within the Subdivision,

hereby covenants, and each Owner of any Lot in the Subdivision by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree to pay to the Master Association and to the Village Association: (1) annual maintenance charges assessments, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments levied by the Master Association and by the Village Association, together with interest, costs and reasonable attorneys' fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time when the assessment fell due. Appropriate recitations in the deed conveying each Lot may evidence the retention of a vendor's lien by Declarant for the purpose of securing payment of said charge assigned to the Master Association and the Village Association without recourse on Declarant in any manner for payment.

SECTION 2. PURPOSE OF ASSESSMENTS. The assessments levied by the Master Association and by the Village Association shall be used to promote the recreation, health, safety, and welfare of the Owners of the properties within the respective jurisdictions of such associations including, but not limited to, the maintenance of the General Common Area by the Master Association and the maintenance of the Village Common Area by the Village Association, the maintenance and repair of the walkways, steps, entryways or fountain areas, if any; constructing and maintaining parkways, rights-of-way, easements, esplanades, and other public areas; operation of all street lights; payment of all legal and other expenses incurred in connection with enforcement of restrictions; payment of all reasonable and necessary expenses in connection with the collection and administration of assessments; employing policemen and watchmen, if desired; caring for vacant lots and doing other things or things necessary or desirable in the opinion of the Village Association to keep the Lots in the Subdivision neat and in good order, or which is considered of general benefit to the Owners or occupants of the Lots. The judgment of the boards of directors of the associations in determining the functions to be performed, and in the expenditure of funds shall be final and conclusive so long as it is exercised in good faith.

SECTION 3. ANNUAL ASSESSMENTS. The annual per lot assessment by the Master Association and the Village Association for 1996 was \$190.00 and \$220.00, respectively. Various restrictive covenants instruments applicable to the property other than the Subdivision within the jurisdictions of the associations specify a maximum annual per lot assessment for each association.

- a) The maximum annual assessments of the Village Association and the Master Association may be increased for any year by an amount equal to not more than ten percent (10%)

where the Lot will be sold and the earliest time at which the sale will begin). In addition, at least twenty-one (21) days before the date of sale, written notice of the proposed sale shall be served by certified mail on each party obligated to pay the assessment, according to the records of the applicable association. Service of that notice is completed upon deposit of the notice in the United States Mail, postage prepaid, and addressed to the Owner and all other persons obligated to pay the assessment at the last known address as shown by the records of the applicable association. The affidavit of any person having knowledge of the facts to the effect that such service was completed is prima facie evidence of the fact of service. Owner authorizes and empowers the Master Association and the Village Association to sell the Lot as the applicable association deems expedient, to execute and deliver to the purchaser or purchasers thereof deeds of conveyance thereto by fee simple title, with covenants of general warranty in the name of Owner, and to receive the proceeds of the sale which shall be applied as follows, in the following order: (i) to all reasonable costs and expenses of the sale, including, without limitation, reasonable fees incurred by the applicable association and attorneys' fees and cost of title evidence; (ii) to the amount of the unpaid assessment; and (iii) the excess, if any, to Owner or such other person or persons entitled thereto by law. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or abandonment of his Lot.

SECTION 9. SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage existing at any time upon the particular Lot involved given to secure the payment of monies advanced on account of the purchase price and/or the construction of improvements. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure (whether by exercise of power of sale or otherwise) or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to the payment which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but such lien shall exist as, and constitute, a separate and distinct charge and lien on each Lot.

ARTICLE V  
PROPERTY RIGHTS IN THE COMMON AREA

SECTION 1. OWNER'S EASEMENT FOR ACCESS AND ENJOYMENT. Subject to the provisions herein stated, every Owner shall have an easement of access and a right and easement of enjoyment in the General Common Area and the Village Common Area, and such right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following rights of the Master Association and the Village Association:

- (a) The Master Association and the Village Association shall have the right to charge reasonable admission and other fees for the use of any facility situated upon the General Common Area and the Village Common Area, respectively.
- (b) The Master Association and the Village Association shall have the right to borrow money and to mortgage, pledge, deed in trust, or hypothecate any or all of the General Common Area and the Village Common Area, respectively, as security for money borrowed or debts incurred.
- (c) The Master Association and the Village Association shall have the right to take such steps as are reasonably necessary to protect the General Common Area and the Village Common Area, respectively, against foreclosure of any such mortgage.
- (d) The Master Association and the Village Association shall have the right to suspend the voting rights and enjoyment rights of any Owner for any period during which any assessment or other amount owed by such Owner remains unpaid.
- (e) The Master Association and the Village Association shall have the right to establish reasonable rules and regulations governing the use and enjoyment of the General Common Area and the Village Common Area, respectively, and to suspend the enjoyment rights and voting rights of any Member for any period not to exceed sixty (60) days for any infraction of such rules and regulations.
- (f) The Master Association and the Village Association shall have the right to dedicate, sell or transfer all or any part of the General Common Area and the Village Common Area, respectively, to any public agency or authority and the right to grant or dedicate easements in portions of the General Common Area and the Village Common Area, respectively, to public or private utility companies.
- (g) The Master Association and the Village Association shall have the right to enter into agreements pursuant to which individuals who are not members of the association are granted the right to use the General Common Area or the Village Common Area, respectively, and the facilities located thereupon.



SECTION 2. DELEGATION OF USE. Each Owner shall have the right to extend his rights and easements of enjoyment to the General Common Area and the Village Common Area to the members of his family, to his tenants, and to such other persons as may be permitted by the respective associations.

ARTICLE VI  
USE RESTRICTIONS

SECTION 1. RESIDENTIAL USE. Each and every Lot is hereby restricted to residential dwellings for single family residential use only. No business, professional, commercial or manufacturing use shall be made of any Lot, even though such business, professional, commercial or manufacturing use be subordinate or incident to use of the premises as a residence. No structure other than one single family residence and its approved outbuildings shall be constructed, placed on, or permitted to remain on any Lot in the Subdivision. The use of any Lot for duplex houses, garage apartments for rental purposes, apartment houses, or mobile homes is specifically prohibited.

Notwithstanding the foregoing, a residence on a Lot may be used for a Home Occupation provided that:

- (i) no person other than a resident of the residence shall be engaged or employed in the Home Occupation at the site;
- (ii) there shall be no visible storage or display of occupational materials or products;
- (iii) there shall be no exterior evidence of the conduct of a Home Occupation and no Home Occupation shall be conducted on the Lot outside of the residence; and
- (iv) no additional parking shall be provided for the Home Occupation.

As used herein, the term Home Occupation shall mean a commercial enterprise conducted in a single family residence which is incidental to the principal residential use.

SECTION 2. ANIMALS AND LIVESTOCK. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot. Consistent with its use as a residence, dogs, cats, or other household pets not to exceed two (2) in number may be kept on a Lot, provided that they are not kept, bred, or maintained for any business purposes. Pets must be confined to a fenced backyard or kept within the residence and when away from the Lot must be on a leash at all times.

SECTION 3. NUISANCES. No noxious or offensive trade or activity shall be carried on upon any property within the Subdivision nor shall anything be done thereon which may be or become an annoyance or nuisance to residents of the Subdivision.

SECTION 4. STORAGE AND REPAIR OF VEHICLES. Unless otherwise approved by the Village Committee, no boat, water craft, boat trailer, boat rigging, motor home, trailer, truck larger than a one ton pick-up, bus, inoperable automobile, or camper shall be parked or kept in the Street in front of or side of any Lot or on any Lot unless such vehicle is stored within a garage or otherwise screened from public view from all Streets; provided, however, boats, boat trailers, boat riggings, motor homes, trailers, and campers may be temporarily parked in the Street in front of or side of any Lot or on any Lot for a period not exceeding forty-eight (48) hours in any thirty day period. No Owner of any Lot or any visitor or guest of any Owner shall be permitted to perform work on automobiles or other vehicles in driveways or Streets other than work of a temporary nature. For the purposes of the foregoing the term "temporary" shall mean that the vehicle shall not remain in driveways or Streets in excess of twenty-four (24) hours.

SECTION 5. PERMITTED HOURS FOR CONSTRUCTION ACTIVITY. Except in an emergency or when other unusual circumstances exist, as determined by the Board of Directors of the Village Association, after the initial construction of residences by the Declarant and the Builders, outside construction work or noisy interior construction work shall be permitted only between the hours of 7:00 A.M. and 7:00 P.M.

SECTION 6. DISPOSAL OF TRASH. No trash, rubbish, garbage, manure, debris, or offensive material of any kind shall be kept or allowed to remain on any Lot, nor shall any Lot be used or maintained as a dumping ground for such materials. All such matter shall be placed in sanitary refuse containers constructed of metal, plastic or masonry materials with tightfitting sanitary covers or lids and placed in an area adequately screened by planting or fencing. Equipment used for the temporary storage and/or disposal of such material prior to removal shall be kept in a clean and sanitary condition and shall comply with all current laws and regulations and those which may be promulgated in the future by any federal, state, county, municipal or other governmental body with regard to environmental quality and waste disposal. In a manner consistent with good housekeeping, the Owner of each Lot shall remove such prohibited matter from his Lot at regular intervals at his expense.

SECTION 7. DISPOSAL OF HAZARDOUS SUBSTANCES. No gasoline, motor oil, paint, paint thinner, pesticide, or other product considered to be a contaminant or a hazardous substance under applicable federal or state laws and regulations shall be disposed of on any Lot nor shall any such material be deposited into a storm sewer, sanitary sewer manhole, drainage channel or detention pond

within the Subdivision, but rather all such materials shall be handled and disposed of in compliance with all applicable laws and regulations and the recommendations of the manufacturer of the applicable product or a governmental authority with jurisdiction.

SECTION 8. BUILDING MATERIALS. Unless otherwise approved by the Village Committee, no Lot shall be used for the storage of any materials whatsoever, except that material used in the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced. During initial construction of residences by Builders in the Subdivision, building materials may be placed or stored outside the property lines. Building materials may remain on Lots for a reasonable time, so long as the construction progresses without undue delay after which time these materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. Under no circumstances shall building materials be placed or stored on the Streets.

SECTION 9. MINERAL PRODUCTION. No oil drilling, oil development operations, refining, quarrying or mining operations of any kind shall be permitted upon any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be permitted upon any Lot.

#### ARTICLE VII ARCHITECTURAL RESTRICTIONS

SECTION 1. TYPE OF RESIDENCE. Only one detached single family residence not more than two stories shall be built or permitted on each Lot. All residences shall have an attached or detached enclosed garage. All structures shall be of new construction and no structure shall be moved from another location onto any Lot. All residences must be kept in good repair and must be painted when necessary to preserve their attractiveness.

SECTION 2. LIVING AREA REQUIREMENTS. The total living area of each single family dwelling on a Lot, exclusive of porches and garages, shall be not less than twelve hundred (1,200) square feet.

SECTION 3. LOCATION OF RESIDENCE ON LOT. The location of each residence on a Lot will be approved by the Village Committee with its approval of the site plan and the final working plans and specifications. No building shall be located on any Lot nearer to a Street than the minimum building setback lines shown on the plat containing such Lot and no building shall be located on any utility easement. No building shall be located nearer than five (5) feet to an interior lot line; provided, however, (i) a residence may be located not less than three (3) feet from an interior lot line if the construction of a residence on the adjacent lot is no closer than seven (7) feet to the same interior lot line, and (ii) a detached garage located a minimum of fifty-five (55) feet from the front lot line may be located three (3) feet from an interior lot

line. No residence or garage shall be located nearer than eight (8) feet from the rear lot line. For the purposes of this section, eaves, steps and open porches or driveways shall not be considered as a part of a residence.

SECTION 4. TYPE OF CONSTRUCTION. A minimum of 51% of the exterior wall area of all residences below eight (8) feet and above the foundation, exclusive of doors and windows, shall be masonry or brick veneer construction, unless a variance from this restriction is specifically approved in writing by the Village Committee.

No garage or accessory building shall exceed in height the dwelling to which it is appurtenant without the written consent of the Village Committee. Every garage and accessory building (except a greenhouse) shall correspond in style and architecture with the dwelling to which it is appurtenant. No structure of any kind or character which incorporates wood construction on the exterior shall be erected on any lot unless such structure receives at least two coats of paint at the time of construction or the exterior is of redwood or cedar material.

SECTION 5. TEMPORARY BUILDINGS. Unless otherwise approved by the Village Committee, temporary buildings or structures shall not be permitted on any lot. Declarant may permit temporary toilet facilities and construction offices and storage areas to be used by Builders in connection with the construction and sale of residences. With the Declarant's approval, Builders in the Subdivision may use garages as sales offices for the time during which such Builders are marketing homes within the Subdivision. At the time of the sale of a residence by a Builder, any garage appurtenant to such residence used for sales purposes must be reconveyed to a garage or a garage must be added to such residence.

SECTION 6. DRIVEWAYS. On each lot the Builder shall construct a garage to the abutting street, including the portion of the driveway in the street easement, and the Builder shall repair at his expense any damage to the Street occasioned by connecting the driveway thereto.

SECTION 7. ROOF MATERIAL. Roofs of all residences shall be constructed of asphalt or composition type shingles or other materials approved by the Village Committee.

SECTION 8. FENCES. No fence or wall shall be erected on any lot nearer to the street than the minimum building setback lines from the street shown on the plat of the subdivision. The erection of chain link fences on any lot is prohibited. Owners shall construct and maintain a minimum six (6) foot high cedar fence (or other suitable enclosure approved by the Village Committee) to screen from public view outside clothes lines, yard equipment, and wood piles or storage piles. Such fences shall be

constructed with pickets of materials commonly known as 1x4's, with the pickets facing outward to the adjacent Street or Common Area.

SECTION 9. GRASS AND SHRUBBERY. The Owner of each Lot used as a residence shall spot sod or sprig the area between the front of his residence and the curb line of the abutting Street. The grass shall be of a type and within standards prescribed by the Village Committee. Grass and weeds shall be kept mowed to prevent unsightly appearance. Dead or damaged trees, which might create a hazard to property or persons within the Subdivision, shall be promptly removed or repaired, and if not removed by the Owner upon request, then the Village Association may remove or cause to be removed such trees at the Owner's expense and shall not be liable for damage caused by such removal. Vacant Lots shall not be used as dumping grounds for rubbish, trash, rubble, or soil.

SECTION 10. SIGNS. Except for one (1) sign of not more than five (5) feet square advertising a residence on a Lot for sale or rent, no signs, billboards, posters, or advertising devices of any kind shall be permitted on any Lot without the prior written consent of the Village Committee. The right is reserved by Declarant to construct and maintain, or to allow Builders within the Subdivision to construct and maintain, signs, billboards and advertising devices as is customary in connection with the sale of newly constructed residential dwellings. In addition, the Declarant and the Village Association shall have the right to erect identifying signs at each entrance to the Subdivision.

SECTION 11. TRAFFIC SIGHT AREAS. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two and six feet above the Street shall be permitted to remain on any corner lot within fifteen (15) feet of the point formed by the intersection of the building set back lines of such Lot.

SECTION 12. EXTERIOR ANTENNAE. Unless otherwise approved by the Village Committee, no radio or television wires or antennae, including satellite dishes, shall be placed so as to be visible to public view from the Street of the house address.

SECTION 13. DISPOSAL UNITS. Each kitchen in each residence shall be equipped with a garbage disposal unit in a serviceable condition.

SECTION 14. AIR CONDITIONERS. No window or wall type air conditioners shall be permitted in any residence, but the Village Committee, at its discretion, may permit window or wall type air conditioners to be installed if such unit or units will not be visible from the Street of the house address.

SECTION 15. PRIVATE UTILITY LINES. All electrical, telephone, and other utility lines and facilities which are located on a Lot and are not owned by a governmental entity or a public utility company shall be installed in underground conduits or other

underground facilities unless otherwise approved in writing by the Village Committee.

SECTION 16. ENFORCEMENT OF LOT MAINTENANCE. In the event of the violation of any covenant herein by any Owner or occupant of any Lot and the continuance of such violation after ten (10) days written notice thereof, or in the event the Owner or occupant has not proceeded with due diligence to complete appropriate repairs and maintenance after such notice, Declarant, the Master Association, or the Village Association shall have the right (but not the obligation), through its agents or employees, to enter upon such Lot and to secure compliance with these restrictions and restore such Lot to a neat, attractive, healthful and sanitary condition. The Declarant, the Master Association, or Village Association may render a statement of charge to the Owner or occupant of such Lot for the cost of such work. The Owner or occupant agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt. In the event of the failure to pay for such work, the amount of such statement may be added to the annual maintenance charge provided for herein and shall be secured by a lien on the Lot in the same manner as such annual charge. The Declarant, the Master Association, the Village Association and their agents and employees shall not be liable, and are hereby expressly relieved from any liability, for trespass or other tort in connection with the performance of the maintenance and other work authorized herein.

ARTICLE VIII  
EASEMENTS

SECTION 1. GENERAL. Easements for the installation and maintenance of utilities are reserved as shown and provided for on the plat of the Subdivision or as dedicated by separate instruments. Neither Declarant nor any utility company or authorized political subdivision using the easements referred to herein shall be liable for any damages done by them or their assigns, agents, employees or servants, to fences, shrubbery, trees, flowers, improvements or other property of the Owner situated on the land covered by such easements as a result of construction, maintenance or repair work conducted by such parties or their assigns, agents, employees or servants.

SECTION 2. MAINTENANCE EASEMENT. There is reserved, for Declarant, the Master Association, the Village Association, and their respective successors and assigns, a three-foot wide construction and maintenance easement adjacent and parallel to each of the rear and side lot lines of all Lots that abut a landscape reserve, greenbelt, or Street where Declarant has constructed or intends to construct a fence within the landscape reserve or public rights-of-way, together with the right of ingress and egress for the purposes, without liability to the Owner for damages arising from the use of the easement, of constructing, repairing, and/or reconstructing the fence. The easement area shall remain

unobstructed of any structures or plantings that would prohibit access to the fence for construction and maintenance purposes.

SECTION 3. UNDERGROUND ELECTRICAL DISTRIBUTION SYSTEM. An underground electric distribution system has been installed within the Subdivision which will be designated an Underground Residential Subdivision and which underground service area shall serve all Lots in the Subdivision. The Owner of each Lot in the Underground Residential Subdivision shall, at his own cost, furnish, install, own, and maintain (all in accordance with the requirements of local governing authorities and the National Electric Code) the underground service cable and appurtenances from the point of the electric company's metering on customer's structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. In addition, the Owner of each Lot shall, at his own cost, furnish, install, own and maintain a meter loop (in accordance with the then current standards and specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for the residence constructed on such Owner's Lot. For so long as underground service is maintained in the Underground Residential Subdivision, the electric service to each Lot therein shall be underground, uniform in character and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

Easements for the underground service may be crossed by driveways and walkways provided that the Builder or Owner makes prior arrangements with the utility company furnishing electric service and provides and installs the necessary electric conduit of approved type and size under such driveways or walkways prior to construction thereof. Such easement for the underground service shall be kept clear of all other improvements, including buildings, patios, or other pavings, and neither Builder nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees, or servants, to shrubbery, trees, or improvements (other than crossing driveways or walkways provided the conduit has been installed as outlined above) of the Owner and located on the land covered by said easements.

#### ARTICLE IX ENFORCEMENT

The Master Association, the Village Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, the covenants, conditions, restrictions, and liens contained herein. Failure of the Master Association, the Village Association or any Owner to enforce any of the provisions herein

contained shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE X  
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 said covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the Owners of a majority of the Lots within the subdivision covered by this Declaration has been recorded, agreeing to change or terminate the covenants herein, in whole or in part.

SECTION 2. AMENDMENT.

A. By Declarant. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the property subject to this Declaration; (c) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the property subject to this Declaration; or (d) for any other purpose, provided that the amendment has no material adverse effect upon the title to any Owner's property or upon any right of such Owner or the Owner so affected has consented thereto.

B. By Owners. This Declaration may be amended at any time by an instrument executed by the owners of a majority of the Lots covered by this Declaration; provided, however Declarant must consent thereto if such amendment is to be effective prior to the date on which Declarant has sold all of its Lots within the Subdivision. Any such amendment shall become effective when an instrument is filed for record in the Official Public Records of Real Property of Brazoria County, Texas, with the signatures of the requisite number of the Owners of the Lots within the Subdivision (and the signature of Declarant, if applicable).

SECTION 3. SEVERABILITY. Invalidation of any one of these covenants by judgment or other court order shall in no wise affect any other provisions, which shall remain in full force and effect except as to any terms and provisions which are invalidated.



**GREATER TEXAS SURVEYING****METES AND BOUNDS DESCRIPTION  
15.6100 ACRES OF LAND****H. T. & B. R. F. COMPANY SURVEY, SECTION 21, ABSTRACT 308  
BRAZORIA COUNTY, TEXAS**

BEING 15.6100 acres of land situated in the H. T. & B. R. F. Company Survey, Section 21, Abstract 308, Brazoria County, Texas, and being a portion of that certain called 38.6122 acre tract of land described in a deed to Southwyck Nine, L.T.D., currently of record in the Deed Records of Brazoria County; said 15.6100 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8-inch iron rod found in the northerly right-of-way line of Northfork Drive (70 feet wide) as defined in the Plat of Southwyck, Section 5, a subdivision recorded in Volume 17, Page 275 of the Plat Records of Brazoria County, same being in the easterly line of that certain called 31.4390 acre Detention Pond tract described in a deed recorded in Volume 115, Page 616 of the Deed Records of Brazoria County and being the most westerly corner of said 38.6122 acre tract;

THENCE along and with said 31.4390 acre Detention Pond tract easterly line and the westerly line of said 38.6122 acre tract, the following four (4) courses:

NORTH 23°38'54" East, a distance of 218.74 feet to a 5/8-inch iron rod found;

NORTH 17°23'31" East, a distance of 92.02 feet to a 5/8-inch iron rod found;

NORTH 16°13'03" East, a distance of 90.79 feet to a 5/8-inch iron rod found;

NORTH 2°22'17" East, a distance of 63.41 feet to a 5/8-inch iron rod found at the southwest corner of that certain called 0.3577 of one acre Water Plant Site described in a deed recorded in Volume 281, Page 680 of the Deed Records of Brazoria County;

THENCE along and with the south and east lines of said 0.3577 of one acre Water Plant Site, the following three courses:

SOUTH 64°05'56" East, a distance of 97.24 feet to a 5/8-inch iron rod found;

THROUGH a curve to the right having a Central Angle of 109°36'24", a Radius of 50.00 feet, an Arc Length of 23.66 feet, and a Chord Length of 81.72 feet Bearing NORTH 80°42'11" East to a 5/8-inch iron rod found;

NORTH 2°10'37" West, a distance of 108.67 feet to a 5/8-inch iron rod found in the south line of said 31.4390 acre Detention Pond tract;

THENCE NORTH 87°18'03" East, along and with said 31.4390 acre Detention Pond tract south line and the north line of said 38.6122 acre tract, a distance of 681.68 feet;

## GREATER TEXAS SURVEYING

THENCE crossing said 33.6122 acre tract, the following eight (8) courses:

SOUTH 2°40'57" East, a distance of 170.00 feet;

SOUTH 67°19'03" West, a distance of 20.80 feet;

SOUTH 2°40'57" East, a distance of 74.11 feet;

SOUTH 0°48'28" West, a distance of 67.62 feet;

SOUTH 5°23'50" West, a distance of 58.49 feet;

SOUTH 11°02'55" West, a distance of 108.98 feet;

SOUTH 13°46'27" West, a distance of 271.07 feet;

SOUTH 16°45'33" West, a distance of 216.72 feet to the aforesaid northerly right-of-way line of Northfork Drive;

THENCE along and with said Northfork Drive northerly right-of-way line, the following eleven (11) courses:

THROUGH a curve to the right having a Central Angle of 83°37'02", a Radius of 1965.00 feet, an Arc Length of 295.83 feet, and a Chord Length of 295.26 feet Bearing NORTH 89°11'08" West to a 5/8-inch iron rod found;

NORTH 64°52'35" West, a distance of 177.74 feet to a 5/8-inch iron rod found;

THROUGH a curve to the right having a Central Angle of 90°55'57", a Radius of 25.00 feet, an Arc Length of 39.88 feet, and a Chord Length of 36.84 feet Bearing NORTH 19°24'37" West to a 5/8-inch iron rod found;

NORTH 63°12'32" West, a distance of 60.00 feet to a 5/8-inch iron rod found;

THROUGH a curve to the right having a Central Angle of 83°02'15", a Radius of 25.00 feet, an Arc Length of 40.60 feet, and a Chord Length of 38.28 feet Bearing SOUTH 72°34'50" West to a 5/8-inch iron rod found;

THROUGH a curve to the right having a Central Angle of 6°16'30", a Radius of 925.00 feet, an Arc Length of 138.37 feet, and a Chord Length of 138.26 feet Bearing NORTH 56°45'27" West to a 5/8-inch iron rod found;

NORTH 52°37'13" West, a distance of 43.12 feet to a 5/8-inch iron rod found;

THROUGH a curve to the right having a Central Angle of 80°00'00", a Radius of 25.00 feet, an Arc Length of 39.27 feet, and a Chord Length of 35.38 feet Bearing NORTH 7°37'13" West to a 5/8-inch iron rod found;