

DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS

BRIARWOOD SUBDIVISION, SECTION II

WHEREAS, certain restrictions entitled "Declaration of Covenants, Conditions and Restrictions", and recorded in Volume 1083, page 526, of the Deed Records of Brazoria County, Texas, affecting Briarwood Subdivision, Section II, City of Lake Jackson, Brazoria County, Texas, have been terminated as to many lots in said Briarwood Subdivision, Section II by foreclosure of a prior lien; and

WHEREAS, Elgin Realty Co., hereinafter called the Declarant, is the owner of more than ninety percent (90%) of the lots in said subdivision and is entitled to amend said "Declaration of Covenants, Conditions and Restrictions" pursuant to the terms thereof; and

WHEREAS, Neither the Federal Housing Administration nor the Veterans Administration has any interest in any property in said subdivision by virtue of the guaranty or insurance of any loan or otherwise;

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

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Briarwood Homeowners Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners. The Common Area previously conveyed to the

RETURN TO: Elgin Realty Co.
P. O. Box 2885
Houston, Texas 77001
Attn: Mrs. O'Neil

Association is described as follows:

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

Section 5. "Lot" shall mean and refer to any plat of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area. But Declarant shall have the right and privilege to increase or decrease the size or change the shape of any lot it owns, by deed to any other owner, when Declarant deems such change necessary to conform to the location of improvements on the ground.

Section 6. "Declarant" shall mean and refer to Elgin Realty Co., its successors and assigns, if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purposes of development.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to suspend the voting rights and rights to services and use of the recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and, for a period not to exceed sixty (60) days, for any infraction of its published rules and regulations;

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

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Each Lot shall be occupied and used by the owner only as and for a single-family residential dwelling unit for the owner, his family, his social guests, his tenants or contract purchasers.

Section 4. Class B members shall have the right to use dwelling units as office and sales area, and display advertising of any kind until forty-nine (49) dwelling units have been sold.

Section 5. Title to the Common Area. The Declarant hereby covenants for itself,

heirs and assigns, that fee simple title to the Common Area has been conveyed to the Association free and clear of all encumbrances and that no liens shall be filed against the Common Area either by Declarant or by any individual owner of any Lot.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

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

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

Class A. Class A members shall be all Owners 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 eleven (11) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in the Class A membership equal a total of forty-five (45).
- (b) On December 31, 1976.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. 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 Association:

(1) Monthly assessments or charges, and (2) special assessments for capital improvements; such assessments to be established and collected as herein provided. The monthly and special assessments together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien against the property against which each such assessment is made. Each such assessment together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall survive any sale or assignment of the interest of any owner of any Lot; however, the lien securing any such assessment shall run with the land and become the obligation of any such successor in title except as provided in Section 8 of this Article.

Section 2. Purpose of Assessments. The Assessments levied by the Association shall be used expressly to promote the recreation, health, safety and welfare of the residents in the properties and for the improvements and maintenance of the Common Area, for the exterior maintenance of the homes situated upon the properties.

Section 3. Maximum Monthly Assessment. All Assessments or Proposed Assessments for all periods prior to April 1, 1974, are declared void. Beginning May 1, 1974, the maximum month assessment shall be \$ 16.00 per month, however, of that amount only \$14.18 shall be due and payable each month until additional services are provided. Monthly assessments shall be payable in advance on the first day of each and every month.

- (a) From and after May 1, 1974, the maximum monthly assessment may be increased each year beginning January 1, 1975, by not more than ten (10%) percent above the maximum assessment for the corresponding month in the previous year without a vote of the membership.
- (b) From and after May 1, 1974, the maximum monthly assessment may be increased above ten percent (10%) by a vote of two-thirds (2/3) of each class of the members who are voting in person or by proxy at a meeting duly called for this purpose.
- (c) The Board of Directors may fix the monthly assessment at an amount not in excess of the maximum, subject to Paragraph (d) hereof.
- (d) Until Declarant has sold 45 Lots on which a dwelling unit has been completed, Declarant shall have the option to maintain its own dwelling units and lots, in which case Declarant shall not be subject to monthly assessments. After Declarant has sold 45 lots on which a dwelling unit has been completed or in any month in which Declarant elects to be subject to an assessment and have the Association maintain the dwelling units, lots owned by Declarant shall be assessed as follows:

- (1) Lots not occupied by a contract purchaser shall be assessed at a rate equal to forty percent (40%) of the monthly assessment or special assessment as provided in this Article IV.
- (2) Lots occupied by a tenant or contract purchaser shall be assessed at a rate equal to one hundred percent (100%) of the monthly assessment or special assessment as provided in this Article IV.

Section 4. Special Assessments for Capital Improvements. In addition to the monthly assessments authorized above, the Association may levy, in any assessment year, a special assessment for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area,

easements, private streets and parking area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

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

Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 10 days nor more than 30 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called, subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 30 days following the preceding meeting at which a quorum was present.

Section 6. Uniform Rate of Assessments. Both monthly and special assessments shall

be fixed at uniform rate for all lots subject to the exception and/or reduction provided in Section 3(d) hereof. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid.

Section 7. Effect of Nonpayment of Assessments. Remedies of the Association.

At the option of the Association, any assessment not paid within five (5) days after the due date thereof shall have a late charge of five dollars (\$5.00) added for each such payment due and unpaid, and any assessment not paid shall bear interest from the due date thereof at the rate of ten percent (10%) per annum. A vendor's lien and superior title is retained to secure the payment of the assessments provided herein. The association may bring an action at law against the owner personally obligated to pay the same, or may foreclose its lien against the property. No Owner may waive or otherwise escape liability for the assessments provided therefor herein by non-use of the Common Area or abandonment of his lot. At the option of the Association, use of recreation facilities may be denied any member, his family, guests and tenants during the term of any default in the obligation to pay any monthly assessment, but such denial shall not reduce or suspend the obligation to pay any assessment. This remedy shall be cumulative of all other remedies set out herein.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments

provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any

Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments there- after becoming due, or from the lien therefor.

ARTICLE V

EXTERIOR MAINTENANCE

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint on exterior building surfaces, fences, gutters and downspouts, repair, replace and care for roofs, gutters and downspouts, fences and exterior building surfaces. However, repair and maintenance of all glass surfaces, patio planting and trees, grass, doors garage doors, fence gates, windows, skylights, all utilities, electrical fixtures, all other accessories, equipment, fixtures belonging to each Lot, and all loss and damage occasioned by the negli- gence of the members, their families and their guests, shall be at the Owners' expense. In the event the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family or a guest or invitees, the cost of such maintenance or repairs, if not immediately paid by such owner, shall be added to and become a part of the assessment to which such Lot is subject.

ARTICLE VI

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structure and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VII

PARTY WALLS

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

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and

maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

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

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

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

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

ARTICLE VIII

INSURANCE

Section 1. Insurance. Each Owner shall continuously maintain insurance against his individual dwelling unit for its full replacement value against loss or damage from fire, hail, windstorm and "physical loss", naming the Association as an additional insured, and furnish proof of adequate coverage to the complete satisfaction of the Association. Upon failure of an Owner to sign a "Proof of Loss" within 15 days of said loss, the Association may sign such "Proof of Loss" which shall be binding upon the Owner, and each insurance company is directed in event of such failure of the Owner to sign such "Proof of Loss" to make payment upon demand by the Association, to the Association only, to the exclusion of such Owner. In the event of damage or destruction by fire or other casualty to any dwelling unit, carport or other property covered by insurance, said Owner shall with the concurrence of the mortgagee, if any, and the Association, upon the receipt of insurance proceeds, contract to repair or rebuild such damaged or destroyed portions of the exterior of the dwelling unit and carport, if any, in a good workmanlike manner in conformance with the original plans and specifications of said dwelling. In the event such Owner refuses or fails to so repair and rebuild any and all such damage to the

exterior of the dwelling unit and carport within thirty (30) days, the Association, by and through its Board of Directors, is hereby irrevocably authorized by such Owner to repair and rebuild any such dwelling unit and carport in a good and workmanlike manner in conformance with the original plans and specifications. The Owner shall repay the Association in the amount actually expended for such repairs, and the Association shall have a lien securing the payment of same identical to that provided above in this Section securing the payment of assessments, and subject to foreclosure as provided for the failure to pay Annual Assessments.

Section 2. The Board of Directors, or its duly authorized agent, shall have the authority, but not the obligation, to obtain insurance for all the buildings, including all townhouses, unless the Owners thereof have supplied proof of adequate coverage to the complete satisfaction of the Association, against loss or damage by fire or other hazards named in Section 1 in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard, and may also obtain a broad form public liability policy covering all Common Area, and all damage or injury caused by the negligence of the Association or any of its agents. Such insurance may include coverage against vandalism. Premiums for all such insurance, except on the individual dwelling units, shall be common expenses. All such insurance coverage, if any, including insurance on individual townhouses obtained by the Board of Directors, shall be written in the name of the Association as Trustee for each of the Owners. Premiums for insurance obtained by the Board of Directors on individual dwelling units shall not be part of the common expense but shall be an expense of the Owner of the dwelling or dwelling unit so covered and a debt owed by the Owner and shall be collectible by any lawful procedure permitted by the laws of the State of Texas. In addition, if said debt is not paid within 30 days after notice of such debt, such amount shall automatically be subordinate to the lien of any purchase money, mortgage or mortgages and shall be enforceable in the same manner as any lien created by failure to pay the Annual Assessments. In addition to the aforesaid insurance required to be carried by the Owners and the Association, any Owner may, if he wishes, at his own expense, carry any and all other insurance he deems advisable. It shall be the individual responsibility of each Owner at his own expense to provide, as he sees fit, homeowner's liability insurance, theft and other insurance covering personal property damage and loss. In the event of destruction by fire or other casualty to any property covered by insurance obtained by and written in the name of the Association as Trustee, the Board of Directors shall, with the concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, plus any deductible (which shall be paid by the Owner), contract to rebuild or repair

such damage or destroyed portions of the property to as good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal governmental agency, with the proviso agreed to by said bank or institution that such funds may be withdrawn only by signature of an agent duly authorized by the Board of Directors. The Board of Directors may negotiate with any contractor, for the repair, reconstruction or rebuilding of such destroyed building or buildings. In the event the insurance proceeds are insufficient to pay all the cost of repairing and/or rebuilding to the same condition as formerly, the Board of Directors may levy a special assessment against all Owners of the damaged dwelling units in such proportions as the Board of Directors deem fair and equitable in the light of the damage sustained by such dwelling units to make up any deficiency, except that as to damage or loss to the Common Area only, the special assessment shall be levied against all Owners, to make up any deficiency for repair or rebuilding of the Common Area not a physical part of a cost of a dwelling unit. In the event such insurance proceeds exceed the cost of repair and reconstruction, such excess shall be paid over to the respective Owners of the damaged dwelling units.

ARTICLE IX

USE RESTRICTIONS

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

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

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

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

Section 4. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, or the Common Area, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the other Owners. No inoperative motor vehicle shall be parked or stored in front of any dwelling unit or in any street, parking area or yard adjacent to a street for more than 48 hours.

Section 5. Temporary Structures. No structures of a temporary character, trailer, basement, tent, shack, barn, servants' quarters or other out buildings shall be used on any Lot at any time as a residence, either temporarily or permanently; nor shall any used residence or other structure be moved onto any Lot. During the construction and sales period of the initial dwelling units, the builder may erect and maintain such structures as is customary in connection with such construction and sale of such property, including but without limitation to, a business office, storage area, construction yards, signs, model units and sales offices.

Section 6. Signs. No signs of any kind shall be displayed to public view on any Lot or building except one sign of not more than five (5) square feet in area advertising the merits of the property for sale or rent. During the construction and initial sales period of the dwelling units, the builder may use other signs and displays to advertise the merits of the property for sale or rent.

Section 7. Oil and Mining Operations. No gas or oil drilling, gas or oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, Common Area, street or parking area, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot, Common Area, street or parking area.

Section 8. Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets, not to exceed a total of two (2) may be kept provided that they shall not become a nuisance and are not kept, bred, or maintained for any commercial purposes.

Section 9. Garbage and Refuse Disposal. No Lot shall be used or maintained as dumping ground for rubbish. Trash, garbage or other waste shall be kept screened by adequate planting or fencing so as to conceal them from public view. There is reserved in favor of the Association the determination of the method of garbage disposal; that is, whether it shall be through authority or through private garbage disposal contractor(s). All containers or other equipment for the storage or disposal of such materials shall be kept covered and in clean and sanitary condition.

Section 10. Sewage Treatment. No sewage treatment system shall be permitted on any Lot.

Section 11. Use of Common Areas. Except in the individual front and rear yard area appurtenant to a residence, exclusive of the easement as shown by the recorded plat, no planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon said Property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Association's Board of Directors or their designated architectural committee. Except for the right of ingress

and egress and the right and easement of enjoyment as defined herein, the Owners are hereby prohibited and restricted from using any of said Property outside the fence lines of each Lot as such fence lines now exist, except as may be allowed by the Association's Board of Directors. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all Owners of the Properties, and any additions thereto, and is necessary for the protection of said Owners. Maintenance, upkeep and repairs of any front and rear yard shall be the sole responsibility of the individual Owner and not in any manner the responsibility of the Association, except as assumed by the Association. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the Common Area and all exteriors and roofs of the residences including but not limited to recreation and parking areas and walks, shall be kept by the Board of Directors or by its duly delegated representative.

Section 12. Owner's Maintenance. All materials, fixtures, equipment, surfaces, finishes, within a residence (and certain other equipment and lines located outside the residence as hereinafter set forth), shall be maintained and kept in repair by the Owner thereof. The term "within" or "interior" of a residence shall encompass everything contained within the perimeter wall lines of the residence. In addition, the Owner of a residence shall maintain and keep in repair the following equipment and lines located outside the residence: air conditioning condenser, including pipes and electrical lines connecting same to the residence, sanitary sewer line connecting the residence to the city sewer, electrical power service conductors from the exterior of the building to the point of connecting to the electrical utility company's junction box or transformer, electric circuit breakers, any portion of natural gas, and/or telephone service lines located on the Lot but not maintained by the gas and telephone companies. An Owner shall do no act nor any work that will impair the structural soundness or integrity of another residence or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other residences or Owners.

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

Section 14. Utility, Emergency and Association. There is hereby created a blanket easement upon, across, over and under all of said property for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewer, gas, telephones and electricity. An easement is further granted to all police, fire protection, ambulance, garbage and trash collector pick-up vehicles and all similar persons to enter upon the parking areas and Common Area in the performance of their duties. Further, an easement is hereby granted to the Association to enter in or to cross over the Common Area and any Lot to perform the duties of maintenance and repair of the residences or Common Area provided herein. Notwithstanding anything to the contrary contained in this Paragraph, no sewers, electrical lines, water lines or other utilities may be installed or relocated on said Property except as initially programmed and approved by the Declarant or thereafter approved by Declarant or the Association's Board of Directors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant shall have the right to grant such easement of said Property without conflicting with the terms hereof. The easements provided for in this Article shall in no way affect any other recorded easement on said premises.

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

ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation.

(a) Additional residential property and Common Area may be annexed to the properties with the consent of two-thirds (2/3) of each class of members.

(b) Additional land within the area of the land shown as reserved in the amended Plat of Briarwood Subdivision, Section II, recorded in Volume 13, page 171, of the Plat Records of Brazoria County, Texas, may be annexed by the Declarant without the consent of the members within five (5) years of the date of this instrument.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 15th day of April, 1974.

IN WITNESS WHEREOF, Mortgage and Trust, Inc. has executed this instrument to evidence its consent, as lien-holder only, to the foregoing Declaration and has hereunto set its hand this 15th day of April, 1974.

ATTEST:
[Signature]
Secretary

ELGIN REALTY CO.
By: [Signature]
Dave Sarles, President

ATTEST:
[Signature]
Assistant Secretary

MORTGAGE AND TRUST, INC.
(Lienholder)
By: [Signature]
Executive Vice President

[Signature]

[Signature]
W. Ray Marshall, Member

[Signature]

[Signature]
Robert H. Taylor, Jr., Member

[Signature]

[Signature]
Hubert A. Hinkle, Member

[Signature]

[Signature]
Dave Sarles, Member

THE STATE OF TEXAS X
COUNTY OF HARRIS X

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BEFORE ME, the undersigned authority, on this day personally appeared Dave Sarles, President of Elgin Realty Co., a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 15th day of April, 1974.

Francis O'Neil
Notary Public in and for
Harris County, Texas

THE STATE OF TEXAS X
COUNTY OF HARRIS X

BEFORE ME, the undersigned authority, on this day personally appeared _____

C. Harold Wallace, Executive Vice President of Mortgage and Trust, Inc., a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 15th day of April, 1974.

Francis O'Neil
Notary Public in and for
Harris County, Texas

THE STATE OF TEXAS X
COUNTY OF HARRIS X

BEFORE ME, the undersigned authority, a Notary Public in and for the County and State aforesaid, on this day personally appeared W. Ray Marshall, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 15th day of April, 1974.

Francis O'Neil
Notary Public in and for
Harris County, Texas

THE STATE OF TEXAS X
COUNTY OF HARRIS X

BEFORE ME, the undersigned authority, a Notary Public in and for the County and State aforesaid, on this day personally appeared Robert H. Taylor, Jr., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 15th day of April, 1974.

Francis O'Neil
Notary Public in and for
Harris County, Texas

THE STATE OF TEXAS
COUNTY OF HARRIS

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BEFORE ME, the undersigned authority, a Notary Public in and for the County and State aforesaid, on this day personally appeared Hubert A. Hinkle, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 15th day of April, 1974.

Francis O. Noel
Notary Public in and for
Harris County, Texas

THE STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, a Notary Public in and for the County and State aforesaid, on this day personally appeared Dave Sarles, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 15th day of April, 1974.

Francis O. Noel
Notary Public in and for
Harris County, Texas

THE STATE OF TEXAS
COUNTY OF Brazoria

BEFORE ME, the undersigned authority, a Notary Public in and for the County and State aforesaid, on this day personally appeared Sophie M. Franko known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 15th day of April, 1974.



James M. Elbert
Notary Public in and for
Brazoria County, Texas

THE STATE OF TEXAS
COUNTY OF Brazoria

BEFORE ME, the undersigned authority, a Notary Public in and for the County and State aforesaid, on this day personally appeared Erwin Franko, Jr known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 15th day of April, 1974.



James M. Elbert
Notary Public in and for
Brazoria County, Texas

D E E D

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SINGLE ACKNOWLEDGMENT

THE STATE OF TEXAS
COUNTY OF Brazoria

BEFORE ME, the undersigned authority, a Notary Public in and for the County and State aforesaid, on this day personally appeared Sidney M. Brown known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, This 15th day of April 1974
JAMES H. ALBERT
NOTARY PUBLIC IN AND FOR
BRAZORIA COUNTY, TEXAS
MY COMMISSION EXPIRES JUNE 1, 1975
James H. Albert
Notary-Public Brazoria County, Texas

SINGLE ACKNOWLEDGMENT

THE STATE OF TEXAS
COUNTY OF Brazoria

BEFORE ME, the undersigned authority, a Notary Public in and for the County and State aforesaid, on this day personally appeared known to me to be the person whose name subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, This _____ day of _____ 19____

Notary Public _____ County, Texas

SINGLE ACKNOWLEDGMENT

THE STATE OF TEXAS
COUNTY OF Brazoria

BEFORE ME, the undersigned authority, a Notary Public in and for the County and State aforesaid, on this day personally appeared known to me to be the person whose name subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, This _____ day of _____ 19____

Notary Public _____ County, Texas

CORPORATE ACKNOWLEDGMENT

THE STATE OF TEXAS
COUNTY OF Brazoria

BEFORE ME, the undersigned authority, on this day personally appeared _____, President of a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE at this _____ day of _____ 19____

Notary Public _____ County, Texas

Filed for Record at 1:35 o'clock P.M.
April 24 1974 H. R. Stevens, Jr.,
Clerk County Court, Brazoria County,
Texas - By J. Stevens Deputy

RETURN TO: Elgin Realty Co.
P. O. Box 2885
Houston, Texas 77001

Attn: Mrs. Frances O'Neil