

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR SUGAR MILL
SECTION FIVE

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

SUGAR MILL, SECTION FIVE

THIS DECLARATION, made on the date hereinafter set forth by GENSTAR TEXAS INC., a Texas corporation, acting herein by and through their duly authorized officers, hereinafter referred to as "Declarant".

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in SUGAR LAND, County of FORT BEND, State of Texas, which is more particularly described as Lots 1 - 28, Block 1; Lots 1 - 85, Block 2; Lots 1 - 37, Block 3 and Lots 1 - 34, Block 4 of SUGAR MILL, SECTION FIVE (5) Replat as recorded in Volume 28, Page 2 of the Plat Records of FORT BEND County, Texas; and,

WHEREAS, Declarant desires to establish a uniform plan for the development, improvement and sale of the residential lots in said Subdivision, and to ensure the preservation of such uniform plan for the benefit of both the present and future owners of residential lots in said Subdivision;

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, reservations, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the title of 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 thereof. Further, the Association, as hereinafter provided, shall have the right to enforce these covenants, conditions and restrictions.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to SUGAR MILL COMMUNITY ASSOCIATION, INC., a Texas non-profit corporation, its successors and assigns.

Section 2. "Building" shall mean any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind.

Section 3. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners.

Section 4. "Declarant" shall mean and refer to GENSTAR TEXAS INC., its successors and assigns, if such successors or assigns should acquire more than

one undeveloped Lot from the Declarant for the purpose of development.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area, and public areas such as parks, parkways and esplanades.

Section 6. "Owner" shall mean and refer to the resident record owner, whether one or more persons or entities, of the fee simple title to any Lot or portion of a Lot, on which there is or will be built a detached single family dwelling, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation and those having only an interest in the mineral estate.

Section 7. "Plat" shall mean and refer to the recorded map or replat of SUGAR MILL, SECTION FIVE (5), recorded in Volume 28, Page 2 of the Plat Records of Fort Bend County, Texas.

Section 8. "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.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Upon conveyance of same to the Association, every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Area which shall be appurtenant to the title to every Lot, subject to the following provisions:

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

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner or the Owner's delegate 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;

(c) The right of the Association to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property;

(d) 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 Bylaws, his right of enjoyment to the Common Area and facilities

subject, by covenants of record, to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the Association and shall automatically pass with the title to the Lot. Ownership of such lot shall be the sole qualification of membership.

Section 2. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A members shall be all Owners as defined in Article I with the exception of the Declarant. Each lot owned by a Class A member or members shall be allowed one (1) vote for each lot which vote may be cast by the owner or co-owners of that lot but in no event shall more than one (1) vote be cast with respect to any lot.

Class B. Class B members shall be the Declarant, and shall be entitled to three (3) votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) January 1, 1986;

provided, however, that the Class B membership shall be reinstated upon annexation to the properties of any additional residential property and/or common area, but subject to further cessation in accordance with the limitations set forth in the preceding paragraphs (a) and (b) of this Article, whichever occurs first.

ARTICLE IV

COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments.

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:

- (a) Annual assessments or charges, and

to the members of his household, his lease tenants, or contract purchasers who reside on the property. All such delegates shall be subject to the rules and regulations of the Association and all provisions of the Articles of Incorporation and Bylaws of the Association and of this Declaration to the same extent as the Owner, and the Association may take any action against such delegate to enforce such documents as it is authorized to take against the Owner, and the Owner and his delegate shall be bound thereby.

Section 3. Utility Easements; Liability. Declarant, its successors and assigns, reserves the easements and rights-of-way as shown on the Subdivision Plat for the purpose of constructing, maintaining and repairing a system or systems of electric lighting, electric power, cable television and telephone line or lines, gas, sewers or any other utility Declarant sees fit to install in, across and/or under the Properties.

Neither Declarant, its assigns, agents, employees or servants nor any utility company using the easements herein referred to shall be liable for any damages done by them to fences, shrubbery, trees or flowers or other property of the Owner situated on the land covered by said easements.

It is expressly agreed and understood that the title conveyed by Declarant to any Lot or parcel of land within the Properties by contract, deed or other conveyance shall be subject to any easement affecting same for roadways or drainage, water, gas, sewer, storm sewer, electric light, electric power, cable television or telephone purposes and shall convey no interest in any pipes, lines, poles or conduits, or in any utility facility or appurtenances thereto constructed by or under Declarant or any easement owner, or their agents, through, along or upon the premises affected thereby, or any part thereof, to serve said land or other portion of the Properties; and, where not affected, the right to maintain repair, sell or lease such appurtenances to any municipality or other governmental agency or to any public service corporation or to any other party, and such right is hereby expressly reserved.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every person or entity who is a resident record Owner of a fee or undivided fee interest in any lot which is

- (b) Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon 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 not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. Each lot in SUGAR MILL, SECTION FIVE, is hereby subjected to an annual maintenance charge and assessment for the purpose of creating a fund to be designated and known as the "maintenance fund", which maintenance charge and assessment will be paid by the Owner or Owners of each Lot within SUGAR MILL, SECTION FIVE, to the SUGAR MILL COMMUNITY ASSOCIATION, INC., on or before January 1 of each year, in advance annual installments, commencing on a date and in a manner to be promulgated by the Board of Directors of the Association. The rate at which each Lot will be assessed will be determined annually and may be adjusted from year to year by the Association, as herein after provided as the needs for the Subdivision may, in the judgment of the Association, require. Such assessment will be uniform, except as hereinafter provided for Declarant and any builder to whom Declarant sells a Lot. The Association shall use the proceeds of said maintenance fund for the use and benefit of all residents of SUGAR MILL, SECTION FIVE, as well as all other sections of SUGAR MILL: provided, however, that other sections of SUGAR MILL to be entitled to the benefit of this maintenance fund must be impressed with and subjected to the annual maintenance charge and assessment on a uniform, per Lot, basis, equivalent to the maintenance charge and assessment imposed hereby, and further made subject to the jurisdiction of the Association. The uses and benefits to be provided by said Association shall include, by way of clarification and not limitation, at its sole option, any and all of the following: constructing and maintaining alleys, paths, parks, parkways, easements, esplanades, cul-de-sacs, recreational facilities, including swimming

pools and tennis courts, and other public areas, 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, watchmen, lifeguards, instructors and operators, caring for vacant Lots, garbage collection, and doing other things necessary or desirable, in the opinion of the Association, to keep the Properties in the subdivision neat and in good order or which is considered of general benefit to the Owners or occupants of the Properties, including the establishment and maintenance of a reserve for repair, maintenance, taxes, insurance and other charges as specified herein. It is understood that the judgment of the Association in the expenditure of said funds shall be final and conclusive so long as said judgment is exercised in good faith. Nothing herein shall constitute a representation that any of the above will, in fact, be provided by the Association. Each person who accepts a deed to a Lot or Lots agrees, by the acceptance of same, to pay such maintenance charge and assessments as herein provided.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to a resident Owner, the maximum annual assessment shall be \$16.50 per lot per month, or \$198.00 per lot per year.

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 10% above the maximum assessment for the previous year without a vote of the membership.
- (b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 10% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.
- (c) The Board of Directors may fix the annual assessment at an amount not to exceed the maximum permitted herein.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any use or benefit provided for herein in Article IV, Section 2. However,

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 30 days nor more than 60 days in advance of the meeting. At any 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, subsequent meetings may be called subject to the same notice requirement and the required quorum as the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate except as hereafter provided for all Lots and may be collected on a monthly basis. Declarant and any builder to whom declarant sells a Lot shall not be liable for the payment of maintenance charge assessments for any Lot until such Lot has been improved so that it is prepared for the construction of improvements thereon or after the conveyance of any Common Area. After such time, Declarant and any builder to whom Declarant sells a Lot shall be liable for one-half (1/2) of the maintenance charge or assessment, currently assessed, for such Lot until said Lot is conveyed to an Owner. At that time, the Owner thereof shall commence to pay the full assessment thereon.

Section 7. Date of Commencement and Determination of Annual Assessments

The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the annexation of the property into the SUGAR MILL COMMUNITY ASSOCIATION, INC. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. 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. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments. Remedies of the Association.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of nine percent (9%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. 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 sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

USE RESTRICTIONS

Section 1. Land Use and Building Type. All Lots shall be known and described as Lots for residential purposes only (hereinafter sometimes referred to as "residential lots"), and no structure shall be erected, placed, altered, or permitted to remain on any residential lot other than one(1) single-family dwelling not to exceed two (2) stories in height and a detached or an attached garage for not less than two (2) or more than three (3) cars. As used herein, the term "residential purposes" shall be construed to prohibit the use of said property for duplex houses, garage apartments or apartment houses; and no Lot shall be used for business or professional purposes of any kind, including garage sales,

nor for any commercial or manufacturing purposes, even though such purposes be subordinate or incident to use of the premises as a residence. No building of any kind or character shall ever be moved onto any Lot within said subdivision by any Class A Member, it being the intention that only new construction shall be placed and erected thereon. Each single family dwelling may be occupied by only one family consisting of one or more persons related by blood, adoption or marriage or no more than two unrelated persons living and cooking together as a single housekeeping unit together with any household servants. Each single family dwelling shall contain no more than one housekeeping unit.

Section 2. Architectural Control. No building, fence, fountain, outdoor lighting, statuary, wall, landscaping or other structure shall be commenced, erected, placed, altered 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 structures and topography, by the Architectural Control Committee as hereinafter established. In the event said Architectural Control 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.

Section 3. Dwelling Size. Any residential unit constructed on Lots 1 - 37, Block 3 must have a living area of not less than 2,200 square feet, exclusive of open or screened porches, terraces, driveways, and garages. Any residential unit constructed on Lots 34 - 85, Block 2 must have a living area of not less than 2,000 square feet. Any residential unit constructed on Lots 3, 4, 17 and 33, Block 2 and Lots 9, 10, 16, 17, 22, 23, Block 1 must have a living area of not less than 1,850 square feet. All other lots must have residences with square footage of not less than 1,600 square feet. Any residence other than a single story residence must have not less than 1,000 square feet of ground floor living area exclusive of open or screened porches, terraces, driveways, and garages. No residential unit constructed

on said Lots may exceed two (2) stories. All residences shall have an attached or detached enclosed garage with at least the minimum interior floor necessary to accommodate two full-sized automobiles. Garages shall correspond in style, color and architecture to the main residence.

Section 4. Type of Construction.

- (a) The construction of any residence shall involve the use of not less than fifty (50%) brick veneer, stone or other masonry around the outside perimeter of the ground floor of the building. All residences siding or backing on Jess Pirtle Boulevard must have such side of the ground floor covered with masonry.
- (b) Yellow or orange brick should not be used except where permission is given in writing by the Architectural Control Committee.
- (c) Stone should be native Texas stone and must complement the style of the architecture employed and conform to the color scheme of the immediate neighborhood.
- (d) No external roofing material other than composition roofing, or such other types as approved by the Architectural Control Committee shall be constructed or used on any building in any part of the Properties. Composition roofing materials must be of 300 lb. or heavier weight. All roof stacks and flashings must be painted to match the roof color.
- (e) No window or wall-type air conditioners shall be permitted to be used, erected, placed or maintained on or in any building in any part of the Properties, in such a manner that it may be viewed from the street on which the Lot fronts or sides.
- (f) Each kitchen in each dwelling or living quarters situated on any Lot shall be equipped with a garbage disposal unit, which garbage disposal unit shall at all times be kept in serviceable condition.
- (g) No fence or wall shall be erected, placed or maintained on any Lot nearer to the street than the minimum front building setback lines as shown on the recorded Subdivision Plat. All plans for the same shall have been first approved by the Architectural Control Committee. The erection of chain link fences is expressly prohibited on all residential lots. No fence higher than 6 feet from the finished lot grade shall be placed on any residential lot without the written approval of the Architectural Control Committee.

Section 5. Building Location. No building shall be located on any Lot nearer to the front Lot line or nearer to the side street line than the minimum building set back lines shown on the recorded plat. No building shall be located nearer than five (5) feet to a side or rear interior Lot line. No main residence building nor any part thereof shall encroach upon any utility easement. For the purposes of this Covenant, eaves, steps and open porches shall not be considered a part of the main residence building; provided, however, that this shall not be construed to permit any portion of a building to encroach on

any other Lot. For the purposes of these Restrictions, the front of each Lot shall coincide with and be the property line having the smallest or shortest dimension abutting a street. Unless otherwise approved by the Architectural Control Committee, each main residence building will face the front of the Lot, and each detached or attached garage will either face upon the front Lot line or face upon a line drawn perpendicular to the front Lot line, and shall not be located nearer to the front Lot line than the minimum building setback lines shown on the recorded plat; provided, however, that upon approval of the Architectural Control Committee, any detached garage located more than sixty-five (65) feet from the front Lot line shall not be required to face upon said Lot line. Driveway access will be provided from the front of all Lots, except that said access may be provided to corner Lots from a side street. However, no Lot shall have direct driveway access from Jess Pirtle Boulevard, Burney Road, or from a drainage right-of-way or easement.

Section 6. Protective Screening. Protective screening areas are established within a one foot strip of land parallel to the rear lot line of all residential lots. Except as otherwise provided herein regarding street intersections in Article V, Section 14, planting, fences or walls shall be maintained throughout the entire length of such areas by the owner or owners of the Lots at their own expense to form an effective screen for the protection of the residential area. No building or structure except a screen fence or wall or utilities or drainage facilities shall be placed or permitted to remain in such areas. No vehicular access over the area shall be permitted except for the purpose of installation and maintenance of screening, utilities and drainage facilities.

Ownership of any wall, fence or hedge erected as a protective screening on a Lot by Declarant shall pass with title to such Lot and it shall be the Owner's responsibility to maintain said protective screening thereafter. In the event of default on the part of Owner or occupant of any Lot in maintaining said protective screening and such failure continuing after ten (10) days written notice thereof, Declarant or its successors or assigns may, at its option, without liability to the Owner or occupant in trespass or otherwise, enter

upon said Lot and cause said protective screening to be repaired or maintained or to do any other thing necessary to secure compliance with this Declaration, so as to place said protective screening in a satisfactory condition, and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupancy of such Lot, to pay such statement immediately upon receipt thereof.

Section 7. Annoyance or Nuisances. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may become an annoyance to the neighborhood. No exterior speaker, horn, whistle, bell or other sound device, except security devices used exclusively for security purposes, shall be located, used or placed on a Lot. The Board of Directors of the Association shall have the sole and absolute discretion to determine what constitutes a nuisance or annoyance. Activities expressly prohibited, without limitation, include 1) the performance of work on automobiles or other vehicles in driveways or streets abutting Lots, other than work of a temporary nature (not to exceed twelve (12) hours), 2) the use or discharge of firearms; firecrackers or other fireworks within the Properties, and 3) the storage of flammable liquids in excess of five gallons.

Section 8. Temporary Structures and Outbuildings. No structure of a temporary or permanent character, whether trailer, tent, shack, garage, barn or other outbuilding shall be maintained or used on any Lot at any time for any purpose; provided, however,

- (a) That greenhouse, tool sheds and bathhouses shall be permitted hereunder, provided plans for the same are approved in advance by the Architectural Control Committee. Said outbuildings shall be limited to a maximum of eight feet in height, one hundred twenty square feet of floor space and correspond in style, color and materials to the dwelling to which it is appurtenant; and,
- (b) That Declarant reserves, for itself and any homebuilders in said addition, the exclusive right to erect, place and maintain such facilities or maintain a sales or construction office, 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 toilet facilities.

Section 9. Storage of Vehicles or Equipment. No motor vehicle or non-motorized vehicle, boat, marine craft, hovercraft, aircraft, machine

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 vehicle or object is completely concealed from public view inside a garage or approved enclosure. Passenger automobiles, passenger vans, motorcycles, or pick-up trucks that are in operating condition, having current license plates and inspection stickers, are in daily use as motor vehicles on the streets and highways of the State of Texas, and which do not exceed six feet six inches in height, or seven feet six inches in width, or twenty-one feet in length are excepted herefrom. No vehicle shall be parked such as to obstruct or block a public sidewalk. No vehicle may be repaired on a Lot where such vehicle is not concealed from view inside a garage or other approved enclosure.

This restriction shall not apply to any vehicle, machinery, or equipment temporarily parked and in use for the construction, repair or maintenance of a house or houses in the immediate vicinity.

Section 10. Signs and Billboards. No signs, billboards, posters or advertising devices of any character shall be erected, permitted or maintained on any Lot except one (1) sign of not more than seven (7) square feet advertising the particular Lot or Building on which the sign is situated for sale or rent. Except, however, the right is reserved by Declarant to construct and maintain such signs, billboards or advertising devices of such size as it deems necessary and is customary in connection with the financing and general sale of property in this subdivision. In no event shall any sign, billboard, poster or advertising device of any character, other than as specifically prescribed in the first sentence of this Section 10, be erected, permitted or maintained on any Lot without the express prior written consent of the Architectural Control Committee. The term "Declarant", as used in this Section 10, shall refer to the entities and such successor or assigns of such entities to whom the right under this Section 10, is expressly and specifically transferred. Declarant, or its assigns, shall have the right to remove any such sign, advertisement, billboard or structure which is placed on said Lots in violation hereof, and in doing so shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal.

Section 11. Animals and Livestock. The raising or keeping of hogs, horses, poultry, fowls or other livestock, including wild animals, on any Lot in the Subdivision is strictly prohibited. Consistent with its use as a residence, dogs, cats and other domestic household pets, not in excess of three (3) adult pets, may be kept on a Lot, provided they are not kept, bred or maintained for any commercial purposes.

Section 12. Water and Mineral Operations. No oil or water drilling, oil or water development operations, oil refining, quarrying or mining operations of any kind shall be permitted on any Lot, nor shall oil or water wells, tanks, tunnels, mineral excavations or shafts be permitted on any Lot. No derrick or other structure designed for use in boring for water, oil, natural gas, or other minerals shall be erected, and maintained or permitted in any Lot.

Section 13. Storage and Disposal of Refuse. 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. All equipment for the storage or disposal of such waste materials shall be kept in clean and sanitary condition. Provided further, that no Lot shall be used for the open storage of any materials whatsoever which storage is visible from the street, except that new 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 delay, until the completion of the improvements, after which 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 street paving.

Section 14. Visual Obstructions. No shrub, tree planting, fence, wall, or hedge which obstructs sight lines at elevations between two (2) and six (6) feet above the roadway shall be planted, constructed, or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the public street right-

of-way lines extended. The same sight line limitations shall apply to the triangular area formed by the lot line abutting a street, the edge of any driveway pavement and a line connecting them at points ten (10) feet from their intersection. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at the sufficient height to prevent obstructions of such sight lines.

Section 15. Antennas and Flagpoles. No electronic antenna or device of any type for receiving electronic signals shall be erected, constructed, placed or permitted to remain on the exterior of any house, garage or buildings constructed on any Lot in the Subdivision or free standing on any Lot. No flagpole shall be permanently erected on any property unless prior written approval has been granted by the Architectural Control Committee. TV satellite reception discs shall be screened by a fence or other similar facility, so as to conceal them from view of any other Lot or public street.

Section 16. Clothes Line. No clothing or other material shall be aired or dried on any Lot, except in an enclosed structure, or in an area adequately screened so as not to be seen from other Lots, streets or any other areas.

Section 17. Decorative Appurtenances. No decorative appurtenances, such as sculptures, birdhouses, birdbaths, fountains or other decorative embellishments shall be installed on front lawns or any other location visible from any street, unless such specific items have been approved in writing by the Architectural Control Committee.

Section 18. Wind Generators. No wind generators shall be erected or maintained on any Lot.

✓ Section 19. Solar Collectors. No solar collector shall be installed without the written approval of the Architectural Control Committee. Such installation shall be in harmony with the design of the residence. When reasonably possible, solar collectors shall be installed in a location not visible from the public street in front of the residence.

Section 20. Playground Equipment. No basketball goal, tether pole, play net or any other recreational facility shall be erected on any Lot

in a location that is visible from the front of said Lot. 1024 PAGE 426

Section 21. Carports. No carports shall be erected or permitted to remain on any Lot without the express written approval of the Architectural Control Committee. Said approval will be denied unless the carport is shown to be an integral part of the residence and constructed using the same design, color and materials as the residence uses.

Section 22. Garage Doors. Garage doors visible from any street shall be kept in the closed position when the garage is not being used by the Owner or occupant.

Section 23. Permitted Hours for Construction Activity. Except in an emergency or when other unusual circumstances exist, as determined by the Board of Directors of the Association, outside construction work or noisy interior construction work shall be permitted only between the hours of 7:00 A.M. and 10:00 P.M.

Section 24. Removal of Dirt and Trees. The digging or the removal of any dirt from any Lot or property in the Subdivision is prohibited, except as necessary in conjunction with landscaping or construction of improvements thereon. No trees shall be cut from any Lot or any property in the Subdivision, except to provide room for construction of improvements or to remove dead, diseased or unsightly trees.

Section 25. Mailboxes. Mailboxes, house numbers and name identification used in the Subdivision must be harmonious with the overall character and aesthetics of the community and the decision of the Architectural Control Committee that any such matter is not so harmonious shall be final. The style of mailboxes, the height setting and location shall be determined by the Architectural Control Committee.

Section 26. Lot Maintenance. All Lots shall be kept at all times in a sanitary, healthful, safe and attractive condition. The Owner or occupant of any Lot shall keep all weeds and grass thereon cut and shall in no event use any Lot for storage of material or equipment, except for normal residential requirements or incident to construction of improvements thereon as herein permitted, or permit the accumulation of garbage, trash or rubbish, except by use of an incinerator approved by Declarant, its successors or assigns, and then only during such conditions as permitted by law. All yard equipment, woodpiles or storage piles shall be kept screened by a service yard fence or other similar facility

as herein otherwise provided, so as to conceal them from view of any other Lots, streets or other property in the Subdivision.

In the event of default on the part of the Owner or occupant of any Lot in observing the above requirements or any of them, such default continuing after ten (10) days' written notice thereof, or in the event the Owner or occupant has not proceeded with due diligence to complete appropriate maintenance after such notice, Declarant or its assignee, may, without liability to the Owner or occupant, in trespass or otherwise, enter upon said Lot and cut, or cause to be cut, such weeds and grass, and remove or cause to be removed such garbage, trash and rubbish or do any other thing necessary to secure compliance with these restrictions, so as to place said Lot in a neat, attractive, healthful, safe and sanitary condition, and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt thereof. To secure the payment of such charges in the event of nonpayment by the Owner, a vendor's lien is herein and hereby retained against the said Lot and improvements in favor of Declarant or its assignee, but such lien shall be inferior to any first mortgage. Any foreclosure of any such prior or superior lien under the power of sale of any mortgage, deed of trust or other security instrument, or through other court proceedings shall not cut off and extinguish the vendor's lien securing said charge which became due and payable prior to such foreclosure date should such funds resulting from the foreclosure be available, and no such foreclosure shall free any Lot from the vendor's lien securing said charge (thereafter becoming due and payable, nor shall the personal obligation of the Homeowner foreclosed be extinguished by any foreclosure.

Section 27. Damaged Buildings. Any building destroyed partially or totally by fire, storm or any other means shall be repaired or demolished within a reasonable period of time and the land restored to an orderly and attractive condition.

Section 28. Lot Drainage. Each owner of a lot agrees for himself, his heirs, or successors in interest that he will not in any way interfere with the established drainage pattern over his Lot from adjoining or other Lots in said tract; and he will make adequate provisions for proper drainage in the event it becomes necessary to change the established drainage over

his Lot. For the purpose hereof, "established drainage" is defined as the drainage which occurred at the time that the overall grading of said tract, including landscaping of any Lots in said tract, was completed by Declarant.

ARTICLE VI

ARCHITECTURAL CONTROL COMMITTEE

Section 1. Approval of Building Plans. No building, fence, wall, landscaping or other structure shall be commenced, erected, placed, altered or maintained on any Lot until the construction plans and specifications and a plot plan showing the location of the structure have been approved in writing as to harmony of exterior design and color with existing structures, as to location with respect to topography and finished ground elevation and as to compliance with minimum construction standards by the SUGAR MILL, SECTION FIVE, 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 Architectural Control Committee, or its designated representative, prior to commencement of construction. The 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 entire discretion. In the event the Architectural Control Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the same are submitted to it, approval will not be required and the requirements of this Section will be deemed to have been fully complied with. The Committee retains the right to retain one copy of all approved plans and specifications for committee's files. Further, any Owner receiving approval of any plans hereunder agrees to construct said addition or structure in accordance with the approved plans.

Section 2. Powers of The Committee. The Committee shall have the right to specify architectural and aesthetic requirements for building sites, 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 a limited number of acceptable exterior materials and finishes that may be utilized in construction or repair of improvements. The Committee shall have full power and authority to reject any plans and specifications that do not comply

with the restrictions herein imposed or that do not meet its minimum construction or architectural design requirements or that might not be compatible with the overall character and aesthetics of the Subdivision. The Committee shall have the right, exercisable at its discretion, to grant variances to the architectural restrictions in specific instances where the Committee in good faith deems that such variance does not adversely affect the architectural and environmental integrity of the Subdivision or the common scheme of development. All variance grants shall be in writing, addressed to the Owner requesting the variance, describing the applicable restrictions to which the variance is granted, listing conditions imposed on the granted variance and listing specific reasons for granting of the variance. Failure by the Committee to respond within thirty (30) days to a request for a variance shall operate as a denial of the variance.

Section 3. Committee Membership. The Architectural Control Committee shall be initially composed of John E. Carr, Jimmie F. Jenkins and Laurine Ernsberger, who by majority vote may designate a representative to act for them.

Section 4. Replacement. In the event of death or resignation of any member or members of said Committee, the remaining member or members shall appoint a successor member or members or relinquish such authority to the Board of Directors of the Association and until such successor member or members shall have been so appointed, or such authority is relinquished to the Board of Directors of the Association, the remaining member or members shall have full authority to approve or disapprove plans, specifications and plot plans submitted or to designate a representative with like authority.

Section 5. Minimum Construction Standards. The Architectural Control Committee may from time to time promulgate an outline of minimum acceptable construction standards; provided however, that such outline will serve as a minimum guideline and such Architectural Control Committee shall not be bound thereby.

Section 6. Term. The duties and powers of the Architectural Control Committee and of the designated representative shall cease on, or before, if relinquished as hereinabove provided, ten (10) years from the date of this instrument. Thereafter, all power vested in said Committee by this covenant shall be assumed by the Board of Directors of the Association.

Section 7. No Liability. Declarant, the Association and the Architectural Control Committee, as well as their agents, employees and architects, shall not be liable to any other party for any loss, claim or demand asserted on account of their administration of these restrictions and the performance of their duties hereunder, or any failure or defect in such administration and performance. These restrictions can be altered or amended only as provided herein and no person is authorized to grant exceptions or make representations contrary to these restrictions. No approval of plans and specifications and no publication of minimum construction standards shall ever be construed as representing or implying that such plans, specifications or standards will, if followed, result in a properly designed residence. Such approvals and standards shall in no event be construed as representing or guaranteeing that any residence will be built in a good, workmanlike manner. The acceptance of a deed to a residential Lot in the Subdivision shall be deemed a covenant and agreement on the part of the grantee, and the grantee's heirs, successors and assigns, that Declarant, the Association and the Architectural Control Committee, as well as their agents, employees and architects, shall have no liability under these restrictions except for willful misdeeds.

ARTICLE VII

EASEMENTS

Section 1. Underground Electrical Distribution. An underground electric distribution system will be installed in that part of SUGAR MILL, SECTION FIVE, designated herein as Underground Residential Subdivision, which underground service embraces all of the Lots which are platted in SUGAR MILL SUBDIVISION, SECTION FIVE. The Owner of each Lot containing a single dwelling unit, shall at his or its own cost, furnish, install, own and maintain (all in accordance with the requirement of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of Electric Company's metering at the 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. The Owner of each Lot containing a single dwelling unit, shall

at his or its 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 so long as underground service is maintained in the Underground Residential Subdivision, the electric service to each dwelling unit 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.

The Electric Company shall not be obligated to provide electric service to any mobile home unless (a) Declarant has paid to the Company an amount representing the excess in cost, for the entire Underground Residential Subdivision, of the underground distribution system over the cost of the equivalent overhead facilities to serve such Subdivision or (b) the Owner of each affected Lot shall pay to the Company the sum of (1) \$1.75 per front Lot foot, it having been agreed that such amount reasonably represents the excess in the cost of equivalent overhead facilities to serve such Lot or dwelling unit, plus (2) the cost of rearranging, and adding any electric facilities serving such Lot, which arrangement and/or addition is determined by the Company to be necessary. This paragraph shall not, however, be construed to permit mobile homes of any type.

The provisions of the two preceding paragraphs also apply to any future residential development in Reserve(s) as shown on the plat of SUGAR MILL SUBDIVISION, SECTION FIVE. The above provisions do not apply to any future nonresidential development in such Reserve(s).

Easements for the underground service may be crossed by driveways and walkways provided that the Builder or Owner makes prior arrangements with the Electric 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.

Section 2. Reservations, Exceptions and Dedications. The Subdivision Plat dedicates for use as such, subject to the limitations set forth herein, the streets and easements shown thereon, and such Subdivision Plat further establishes certain restrictions applicable to the Properties, including, without limitation, certain minimum setback lines. All dedications, limitations, restrictions and reservations shown on the Subdivision Plat 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.

ARTICLE VIII

GENERAL PROVISIONS

Section 1. Enforcement. In the event of any violation or attempted violation of any of the terms or provisions hereof, including any of the restrictions or covenants set forth herein, enforcement of the terms and provisions hereof shall be authorized by any proceedings at law or in equity against any person or persons so violating or attempting to violate any of the provisions hereof, including by means of actions to restrain or prevent such violation or attempted violation by injunction, prohibitive or mandatory, and it shall not be a prerequisite to the granting of any such injunction that there be inadequate remedy at law or that there be any showing of irreparable harm or damage if such injunction is not granted. In addition, any person entitled to enforce the provisions hereof may recover such damages, either actual or punitive, as such person may show himself justly entitled by reasons of such violation of the terms and provisions hereof. The terms and provisions hereof may be enforced by Declarant, by the Association (and the Association is hereby expressly authorized to use its funds for the purpose of assisting in the enforcement of the terms and provisions hereof), or by the Owner of any Lot shown in the plat establishing SUGAR MILL, SECTION FIVE. Failure by the Association or any Owner to so enforce any covenant or restriction hereof shall not be construed to constitute a waiver of the right to thereafter enforce such provision or any other provision hereof. No violation of any of the terms or provisions hereof, or any portion thereof, shall affect the rights of any mortgagee

under any mortgage or deed of trust presently or hereafter placed of record covering any of the land shown to be within the plat establishing SUGAR MILL, SECTION FIVE.

Section 2. Entry and Emergency Powers. To the extent necessary to prevent rat infestation, diminish fire hazards and accomplish any of the above needed repair, maintenance and restoration, the Association shall have the right, through its agents and employees, to enter any residence or improvements located upon such Lot. The Association may render a statement of charge to the Owner or occupant of such Lot for the cost of such work. The Owner and occupant agree by the purchase and occupation of the Lot to pay such statement immediately upon receipt. The cost of such work, plus interest thereon at the maximum rate permitted under the laws of the State of Texas, shall become a part of the assessment payable by said Owners and payment thereof shall be secured by the lien herein retained. The Association, its 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 exterior maintenance and other work authorized herein.

Section 3. Amendment. The covenants and restrictions of the Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of forty (40) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended during the first forty (40) 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 properly recorded in Fort Bend County, Texas.

The Developer shall have and reserve the right at any time and from time to time, without the joinder or consent of any other party to amend this Declaration by any instrument in writing duly signed, acknowledged and filed for record for the purpose of correcting any typographical or grammatical error, ambiguity or inconsistency appearing herein, provided that any such amendment shall be consistent with and in furtherance of the

general plan and scheme of development as evidenced by the Declaration and any Supplemental Declarations taken collectively, and shall not impair or affect the vested property rights of any Owner or his mortgagee.

Section 4. Annexation. Additional residential property and common area outside of SUGAR MILL SUBDIVISION may be annexed to the Properties covered by the Association, and subject to the jurisdiction and benefit of the Association, with the consent of two-third (2/3) of each class of membership of the Association; provided, however, additional residential property within SUGAR MILL SUBDIVISION may be annexed by the Declarant without the consent of the members, provided that the Federal Housing Administration and Veterans Administration determine that the annexation is in accordance with a general plan theretofore approved by them and the Federal Housing Administration and Veterans Administration approve each additional stage or section of SUGAR MILL SUBDIVISION. The Owners of Lots in such annexed property, as well as all other Owners subject to the jurisdiction of the Association, shall be entitled to the use and benefit of all Community Properties that may become subject to the jurisdiction of the Association, provided that such annexed property shall be impressed with and subject to at least the annual maintenance assessment imposed hereby.

Section 5. Interpretation. If this Declaration or any word, clause, sentence, paragraph or other part thereof shall be susceptible of more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration shall govern.

Section 6. Omissions. If any punctuation, word, clause, sentence or provision necessary to give meaning, validity or effect to any other word, clause, sentence or provisions appearing in this Declaration shall be omitted herefrom, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provisions shall be supplied by inference.

Section 7. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no ways affect any other provisions which shall remain in full force and effect except as to

any terms and provisions which are invalidated.

Section 8. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration and/or Veterans Administration: Dedication of Common Area and amendment to these Restrictions, and the annexation of additional areas.

Section 9. Mergers and Consolidations. The Association may participate in mergers and consolidations with other non-profit corporations organized for the same purposes, provided that any such merger or consolidation shall have two-thirds (2/3) of each class of the voting membership.

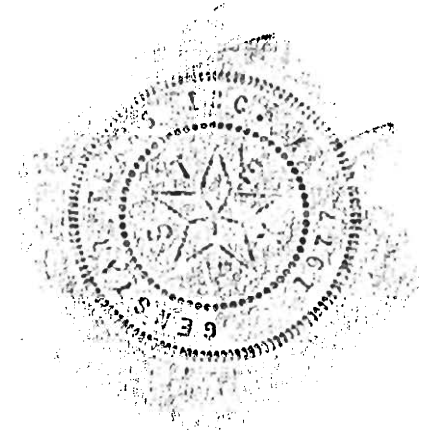
EXECUTED this the 25th day of JANUARY, 1982.

GENSTAR TEXAS INC.

BY: *John E. Carr, III*
John E. Carr, III
Vice President

ATTEST:

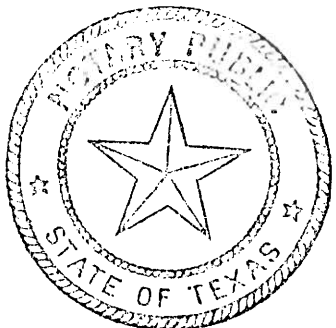
BY: *Laurine M. Ernsberger*
Laurine M. Ernsberger
Assistant Secretary



THE STATE OF TEXAS)
COUNTY OF FORT BEND)

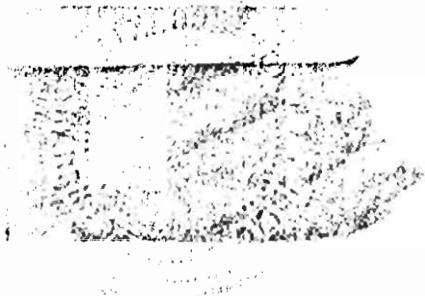
BEFORE ME, the undersigned authority, on this day personally appeared John E. Carr, III, Vice President, of GENSTAR TEXAS INC., a corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration 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 25th day of JANUARY, 1982.



Jimmie F. Jenkins
Notary Public in and for
STATE OF Texas

My Commission expires: 7-17-84
JIMMIE F. JENKINS



My Commission expires: 9-12-84

Bernice Kujawa
Notary Public in and for
Harris, Texas

Bernice Kujawa

1982.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 26th day of January,

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

COUNTY OF HARRIS)
THE STATE OF TEXAS)

ASSISTANT VICE PRESIDENT
DEBRA J. SHANNON

Debra J. Shannon

ATTEST:

Gary A. Chessman
Vice President

BY: *Gary A. Chessman*

BANK OF THE SOUTHWEST NATIONAL ASSOCIATION

1982.

SIGNED AND ATTESTED by the undersigned officers of BANK OF THE SOUTHWEST NATIONAL ASSOCIATION hereto authorized, this the 26th day of January,

to.

interests in the Common Area, subject to the restrictions hereby agreed
appurtenances thereto, and all of the undivided, equitable shares and
liens shall hereafter be upon and against each and all of the lots and all
any part thereof, but the undersigned agrees that its said mortgage and
release of said mortgage or liens owned and held by the undersigned, or
This consent and joinder shall not be construed or operate as a
Covenants, Conditions and Restrictions.
lienholder, does hereby consent to and join in said Declaration of
defined as the "Property" in said restrictions, as such mortgage and
against the real property described in the foregoing restrictions and
being the owner and holder of an existing mortgage and lien upon and
The undersigned, BANK OF THE SOUTHWEST NATIONAL ASSOCIATION,

NOV 10 1984 436

JOINDER OF LIENHOLDER

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