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AMENDED DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS

~~2-22-3509~~

THE WOODLANDS HOMEOWNERS' ASSOCIATION OF AUSTIN

2-23-2365

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THIS DECLARATION, made on the date hereinafter set forth by THE WOODLANDS OF AUSTIN, INC., a Texas Corporation, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the City of Austin, County of Travis, State of Texas, which is more particularly described as:

See attached Exhibit "A".

NOW THEREFORE, Declarant hereby declares that all of the above described properties, and any other properties hereafter annexed as hereinbelow provided, 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 shall 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 thereof, and which shall be in lieu of all such declarations heretofore filed by Declarant with regard to the said property.

ARTICLE I

Definitions

Section 1. "Association" shall mean and refer to THE WOODLANDS HOMEOWNERS' ASSOCIATION OF AUSTIN, 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, provided however, that the purchaser at a foreclosure sale or trustee's sale shall be deemed an Owner.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described in Exhibit A, any other properties hereafter annexed as hereinbelow provided and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association, free and clear of any lien or other encumbrance excepting only public utility easements, at the time of the conveyance of the first lot is described in Exhibit "B".

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.

Section 6. "Declarant" shall mean and refer to THE WOODLANDS OF AUSTIN, 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.

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:

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(a) the right of the Association to charge reasonable admissions 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 for any period during which any assessment against that Owner's Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) 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, however, shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of all members entitled to vote has been recorded;

(d) the right of the Association to make such reasonable rules and regulations regarding the use of the Common Area and facilities located thereon, by the Owners and other persons entitled to such use, including but not limited to restrictions of the number of guests who may use the Common Area and the parts of the Common Area such guests may use;

(e) the right of the Association to borrow money for the purpose of improvement of the Common Area and facilities, constructing new facilities thereon or performing the maintenance obligations and providing the services set forth herein and in connection therewith to mortgage the Common Area or portions thereof; and

(f) the right of the Association to contract for services with third parties on such terms as the Association may determine to be in the best interests of the Association.

Section 2. Exercise of Power. The powers reserved to the Association in Section 1 of this Article and any other powers of the Association created herein shall be exercised by the Board of Directors unless specifically provided otherwise.

Section 3. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his or her right of enjoyment to the Common Area and facilities to the members of his or her family, tenants, or contract purchasers who reside on such Owner's Lot.

ARTICLE III

Membership and Voting Rights

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

Section 2. Voting Rights. 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 determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member 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 when the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership.

Section 3. No provision contained in Section 2 of this Article above shall be construed as prohibiting the revival of Class B membership if such be the logical result of annexing additional properties hereto as hereinbelow provided.

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Section 4. Common Area For Benefit of All Members. No provision herein whether in this Article of elsewhere, may be construed to permit the Association to take any action respecting any Common Area within the properties hereafter conveyed to the Association which will have an adverse affect upon the right of Declarant or any present or future Owner of any Lot within the Properties to the use or enjoyment thereof.

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ARTICLE IV

Covenant For Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation of 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: (1) annual assessments or charges, and (2) special assessments for capital improvements and deficits, 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. The obligation to pay such assessments being part of the purchase price of each Lot when sold to an Owner, an express Vendor's Lien is hereby retained to secure the payment thereof in each such instance and is hereby transferred and assigned to the Association, each such lien to be superior and paramount to any homestead or other exemption provided by law. 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 that person's successors in title unless expressly assumed by them, but, nevertheless, the lien as to any and all such assessments shall continue to be a lien upon any such Lot as provided above.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the pleasure, recreation and other non-profitable purposes of the members of the Association, including without limitation the improvements and maintenance of the Common Area.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$35.00 per month.

(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 without a vote of the Membership in the same proportion as the increase, if any, of the Consumer Price Index for Urban Wage Earners and Clerical Workers - U.S. City Average: All items (published by the Department of Labor, Washington, D.C.) for the preceding month of October over that of the October previous.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment for any year may be additionally increased by a vote of two-thirds (2/3) of all 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 in excess of the maximum. The failure of the Association to fix the annual assessments as provided above for any year shall not be deemed a waiver or a release of any Owner from the obligation to pay the Annual Assessment, but the annual assessment fixed for the preceding year shall continue until a new assessment is fixed.

(d) Out of such maximum annual assessment the Association shall create a reasonable reserve for replacement of the facilities and improvement of the Common Area.

Section 4. Special Assessments for Capital Improvements and Deficits. 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

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purpose of defraying, in whole or in part, any deficit created by an excess of expenditures of the Association over receipts for the previous year, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereof, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of all members who are voting in person or by proxy at a meeting duly called for this purpose.

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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 of this Article shall be sent to all members not less than 30 days nor more than 60 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 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 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis, except that such assessments for any Lot remaining unsold by Declarant shall be fixed at such lower rates as may be necessary to promote the pleasure, recreation and other non-profitable purposes of the members of the Association, including without limitation the improvement and maintenance of the Common Area. However, in the event that the Association decides to make any additional capital improvements or acquire any additional fixtures or personal property, as distinguished from the replacement or repair of any such existing upon any Common Area when conveyed to the Association, then Declarant shall not, as to any Lot then or thereafter remaining unsold by Declarant, bear or be responsible for or obligated for the payment of any part of any assessment made for any such purpose.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. 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 ten percent (10%) 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 for the assessments provided for herein shall be subordinate to the lien of any first mortgage created to secure the payment of any part of the purchase price for a Lot or any loan to an Owner or to Declarant or any loan made for the improvement of any Lot. 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

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Maintenance By and Services of the Association

Section 1. Common Area. The Association shall maintain the Common Area.

Section 2. The Association shall maintain fire and extended coverage insurance on all of the insurable improvements upon any Common Area in an amount equal to at least eighty percent (80%) of the insurable value of all such improvements, unless higher coverage is required by First Mortgagees.

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ARTICLE VI

Merger With Other Associations

Section 1. The Association may merge with any other association which has objectives and purposes similar to the Association upon a vote of two-thirds (2/3) of all members at a meeting duly called for that purpose, written notice of which has been given to all members not less than ten (10) nor more than fifty (50) days in advance of the meeting. Such a merger shall not be effective until approved by seventy-five percent (75%) of the first lienholders of the Lots (based upon one vote for each Lot so mortgaged).

ARTICLE VII

Party Walls

Section 1. General Rules. In the case of some of the residences constructed on the Lots, there may be built residences adjoining each other by a wall located on or near the boundary line of two Lots. The wall or other structure separating such residences shall be and remain a party wall and shall be subject to the following provisions.

Section 2. Destructive Acts. Each Owner of a residence having a party wall covenants to do nothing to disturb the integrity and support provided by the wall or other structure by means of a penetration or otherwise. Any Owner (or person for whom an Owner is responsible) causing any such damage or injury shall be liable for the restoration thereof and for any other costs or expenses incurred in connection therewith.

Section 3. Damage or Injury. If damage or injury is caused by neither of such Owners or persons for whom they are responsible, then the restoration and other costs and expenses shall be borne equally by both such Owners except to the extent insurance proceeds may be available. Further, an Owner who by his or her negligence 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 4. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by both Owners who make use of the wall in equal proportions.

Section 5. Application. This Article shall apply whether the party wall be located exactly on the boundary line between the adjoining lots or merely in near proximity to the boundary.

Section 6. Dispute. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each such dispute shall be resolved by arbitration in the manner provided in Section 1 of Article IX below.

Section 7. 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.

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ARTICLE VIII

Permitted Uses and Restrictions

Section 1. General Restriction. The Lots shall be used solely for private single family residential purposes and there shall not be construed or maintained thereon more than one single family residence with a covered parking facility. No Lot may be used as an apartment house, double house, flat, lodging house, hotel or for any business purpose.

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Section 2. Leases. Anything contained in Section 1 to the contrary notwithstanding, an Owner may lease his or her Lot to a tenant for a term of a minimum of six (6) months. Any such lease must be in writing and must provide that it is subject in all respects to the provisions of this Declaration, the By-laws and other governing documents of the Association, and any rules and regulations adopted thereunder. Any such lease must also provide that any failure by the lessee to comply with the terms of such documents shall constitute a default under the lease. Anything contained in this Section 2 to the contrary notwithstanding, the minimum lease term of six months shall be inapplicable to a lease entered into by any mortgagee who comes into possession of a Lot by foreclosure or deed in lieu of foreclosure.

Section 3. Noxious Uses. The land and improvements located on each Lot shall not be used so as to disturb the neighborhood or occupants of adjoining property, or to constitute a nuisance or to violate any public law, ordinance or regulation from time to time applicable thereto. Nor shall such land and improvements be used for any purpose which will create or emit any objectionable, offensive or noxious odors, dust, gas, fumes or other such material.

Section 4. Use of Common Area. The Common Area shall be used for park, recreational, social, access, utility easement and other purposes directly related to the private single family residential use authorized hereunder.

Section 5. Animals. No animals or birds, other than a reasonable number of generally recognized house or yard pets, shall be maintained on any Lot or the Common Area and then only if they are kept, bred, or raised thereon solely as domestic pets and not for commercial purposes. No animal or bird shall be allowed to make an unreasonable amount of noise, or to become a nuisance. No structure for the care, housing, or confinement of any animal or bird shall be maintained so as to be visible from neighboring property. Upon the written request of any Owner the Board of Directors of the Association shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this paragraph, a particular animal or bird is a generally recognized house or yard pet, or a nuisance, or whether the number of animals or birds on any such property is reasonable.

Section 6. Antennas and Signals. No antenna or other device for the transmission or reception of television signals, radio signals, or any other form of electromagnetic radiation shall be erected, used, or maintained on any Lot, whether attached to a building or structure or otherwise, without approval of the Environmental Control Committee, except that the Declarant or the Association may erect a common television antenna. No radio signals, television signals or any other form of electromagnetic radiation shall originate from any Lot which may unreasonably interfere with the reception of television or radio signals on any other Lot.

Section 7. Temporary Occupancy. No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary building or structure of any kind shall be used at any time for a residence, either temporary or permanent. Temporary buildings or structures used during the construction, repair or remodeling of a dwelling on any such Lot or Common Area shall be moved immediately after the completion of construction.

Section 8. Trailers, Boats and Motor Vehicles. No mobile home, trailer of any kind, truck camper, motorized recreational vehicle, permanent tent or similar structure, boat or inoperable motor vehicle of any type shall be kept, placed, maintained, constructed, reconstructed or repaired upon any property or street or

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private driveway in such a manner as will be visible from neighboring property or a public street except in carports; provided, however, that the provisions of this paragraph shall not apply to emergency vehicle repairs or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any improvement approved by the Environmental Control Committee, and provided further that trailers, truck campers, and boats may be kept and placed in such public parking areas, if any, as may be designated by the Board of Directors. In addition, no motor vehicle of any type, whether operable or inoperable, may be constructed, reconstructed, or repaired upon any property or street or private driveway in such a manner as will be visible from neighboring property.

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Section 9. Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot or Common Area, and no odors shall be permitted to arise therefrom, so as to render any such property or portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. No nuisance shall be permitted to exist or operate upon any such property so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any such property.

Section 10. Repair of Buildings. No building or structure upon any property within any Lot or Common Area shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished.

Section 11. Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot or Common Area except in covered containers of a type, size and style which are approved by the Association, which may include the requirement that all containers will be disposable. In no event shall such containers be maintained so as to be visible from neighboring property except to make the same available for collection, and, then, only the shortest time reasonably necessary to effect such collection.

Section 12. Clothes Drying Facilities. Outside clothesline or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Lot or Common Area unless they are erected, placed and maintained exclusively within a fenced service yard or otherwise concealed and not visible from neighboring property.

Section 13. Sidewalk Encroachments. No tree, shrub or planting or any kind on any Lot or Common Area shall be allowed to overhang or otherwise encroach upon any sidewalk or other pedestrian way from ground level to a height of seven (7) feet without prior approval of the Environmental Control Committee.

Section 14. Right of Way. During reasonable hours Declarant, any member of the Environmental Control Committee, or member of the Board of Directors or any other representative or any of them, shall have the right to enter upon and inspect any Lot or Common Area for the purpose of ascertaining whether or not the provisions of these restrictions have been or are being complied with, and such persons shall not be deemed guilty of trespass by reason of such entry.

Section 15. Mineral Exploration. No Lot or Common Area shall be used in any manner to explore for or to remove any water, oil, or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind.

Section 16. Machinery and Equipment. Without the approval of the Association or Declarant, no machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot or Common Area except such machinery or equipment as is usual and customary in Travis County, Texas, in connection with the use, maintenance, or construction of a private residence or appurtenant structures or recreational facilities maintained by the Association; provided, however, such machinery or equipment may be so placed, operated or maintained by any governmental, or quasi-governmental agency or a public utility.

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Section 17. Diseases and Insects. No Owner shall permit anything or condition to exist upon any Lot or Common Area which shall induce, breed, or harbor plant diseases or noxious insects.

Section 18. Restriction on Further Subdivision. No Lot shall be further subdivided and no portion less than all of any such Lot nor any easement or other interest therein, shall be conveyed by any Owner, except, however, that easements may be granted to any governmental or quasi-governmental agency or a public utility.

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Section 19. Signs. No signs whatsoever (movable or affixed), including, but not limited to, commercial, political and similar signs, which are visible from neighboring property shall be erected or maintained on any Lot except:

- (a) Such signs as may be required by law.
- (b) A residential identification sign of a combined total face area of seventy-two (72) square inches or less.
- (c) During the time of construction or any building or other improvement, one job identification sign not larger than eighteen (18) by twenty-four (24) inches in height and width and having a face area not larger than three (3) square feet.
- (d) A "for sale" or "for rent" sign, of a reasonable type, size and appearance, which is similar to other signs customarily used in Travis County, Texas, to advertise individual parcels of residential real property.

The content and location of all signs shall be subject to such rules as the Association may promulgate. The provisions of this paragraph shall not prevent Declarant from commencing, erecting, or maintaining structures or signs of any content or size on Lots owned by it or upon the Common Area when Declarant, in its sole discretion, deems it necessary or convenient to the development, sale, operation, or disposition of the Lots.

Section 20. Tanks. No elevated tanks shall be erected.

Section 21. Increase Insurance Costs. Nothing shall be done on any Lot or on the Common Area which will result in the increase of fire and extended coverage insurance premiums thereon or the cancellation of such insurance

Section 22. Waste. No waste shall be committed on any Lot or the Common Area.

Section 23. Lighting. No lighting or illumination shall be placed upon any Lot in such a manner as to cause unreasonable glare or illumination on any other Lot.

Section 24. Garages. No garage may be used by other than the Owner of a Lot on which the garage is situated or his or her family or bona fide guests and all garage doors shall be closed at all times except as may be necessary for entry and exit of vehicles and persons.

Section 25. Nothing herein shall be construed as prohibiting Declarant, its officers, employers or agents, from inviting any person or the general public to enter any residence situated upon any Lot owned by Declarant with a view toward the sale or lease thereof or from using any such residence as a model for the purpose of making a sale or sales or from maintaining a sales force (whether one or more) in, or about any Lot owned by Declarant which remains unsold.

ARTICLE IX

General Obligations of Owner

Section 1. General Maintenance. Each Owner at his or her own expense shall keep, maintain and care for any buildings and other improvements located on his or her Lot and all trees, plants, or foliage on such Lot except for areas and items maintained by the Association and otherwise keep such Lot and all improvements

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thereon in conformity to its condition when new. However, no Owner shall injure, remove or destroy any tree planted on any Lot by the Declarant or the Association or which has reached a height in excess of ten (10) feet without the approval of the Environmental Control Committee of the Association.

Section 2. Complaints by Owner. If any Owner believes any other Owner is in violation of this Declaration, he or she may so notify such Owner in writing, explaining the reasons for such complaint. If the Owner fails to remedy the alleged violation in ten (10) days after delivery of such notice, a complaint may be transmitted in writing to the President of the Association, who shall thereupon choose, within not more than ten (10) days, a neutral party to arbitrate the dispute in such a manner as the arbitrator deems best, but the arbitrator shall in all cases announce his or her decision within thirty (30) days after the transmittal of the complaint to the President of the Association. If the President or the arbitrator fails to act, the complaint will be considered denied. The arbitrator shall be paid his reasonable expenses, the cost of which shall be borne by the losing party.

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Section 3. Complaints by Association. If the Association believes any Owner is in violation of these Restrictive Covenants, it shall so notify such Owner in writing, explaining its reason for such complaint. If the Owner fails to remedy the alleged violation within ten (10) days following delivery of such notice, then the Association shall have the right to (i) institute appropriate legal action, or (ii) submit the dispute to arbitration, such arbitration to be held in accordance with the rules of the American Arbitration Association by the action of a majority of arbitrators chosen by the two (2) arbitrators previously chosen. If either party fails to choose an arbitrator within fifteen (15) days after the transmission of the complaint to the Owner, the other party may choose the second arbitrator. The decision of the arbitrators shall be made within thirty (30) days after the transmission of the complaint to the Owner. If the arbitrators fail to act within ninety (90) days, the complaint will be considered dismissed. The prevailing party in any such litigation or arbitration shall be entitled to recover from the other party all costs and expenses thereof, including attorney's fees, in connection therewith.

Section 4. Remedy of Violations. If the arbitrator(s) as provided in Section 2 or Section 3 above uphold(s) the complaint, the Owner shall be so notified in writing and shall promptly remedy the violation of this Declaration, and if such Owner fails to remedy such violation within thirty (30) days after the date of such notice or in the time specified in any such proceeding, as appropriate, the Association may (but shall not be obligated to) make the appropriate repairs and add the cost of such repairs, as a Special Assessment, to the normal assessment of such Owner. The Association, and its designees, shall have the right of entry upon the Lot owned by such Owner for such purpose.

Section 5. Fire Insurance. Each Owner shall be obligated to obtain and maintain, or participate in, at Owner's option, a policy of fire and extended coverage insurance covering the improvements on his or her Lot in an amount equal to at least ninety percent (90%) of the insurable value of such improvements; and, for the benefit of all other Owners, the Association shall be named an additional insured in such policy as its interest may appear, such policy to provide that it cannot be cancelled except upon thirty (30) days' written notice to the Association.

Section 6. Attorney in Fact. Each Owner hereby appoints the Association as its agent and attorney-in-fact for the collection of all proceeds payable under any policy of fire and extended coverage insurance; and the Board of Directors of the Association, acting as such Owner's agent, may negotiate, compromise and settle any disputed claim with the insurance company providing such policy of fire and extended coverage insurance and may execute any releases, acquittances, discharges, and other documents as may be necessary to effect such end and may institute such actions at law as it deems necessary to collect the proceeds of said insurance, provided, however, if the mortgagee of any Lot requires such proceeds attributable to such Lot be paid to it, it shall be so paid to such mortgagee.

Section 7. Restoration. In the event of any fire or other casualty covered under any policy of fire and extended coverage insurance, the Association shall collect all insurance proceeds and may, to the extent of such proceeds, as the agent of such Owner, repair, restore and replace any damaged or destroyed structures to their same or similar condition existing just prior to the damage or destruction

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thereof. Such repair, restoration or replacement shall be commenced and completed within a reasonable time in a good and workmanlike manner using the same or similar materials as were originally used in the structures damaged or destroyed. The Association shall not be liable to any Owner or his or her family for any delay in the completion of any repair, restoration or replacement due to causes beyond the reasonable control of the Association, its contractors or subcontractors. Specifically, the Association shall not be liable for delay occasioned by weather, shortage or unavailability of materials and strikes or other work stoppages. To the extent that insurance proceeds are not sufficient to effect such repair, restoration or replacement, the Association may levy against the Owners of the structures damaged or destroyed, a Special Assessment sufficient to effect such repair, restoration or replacement. Such Special Assessment shall be prorated among the Owners of the structures damaged or destroyed in proportion to the extent to which such Owner's structure has been so damaged or destroyed.

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Section 8. Mechanic's and Materialmen's Lien. Each Owner whose structure is repaired, restored or replaced by the Association hereby grants to the Association an express mechanic's and materialmen's lien for the reasonable cost of such repair, restoration, or replacement of the damaged or destroyed structure to the extent that the cost of such repair, restoration or replacement exceeds any insurance proceeds allocable to such repair, restoration or replacement. Upon request by the Board of Directors of the Association and before the commencement of any reconstruction, repair, restoration or replacement, such an Owner shall execute all documents sufficient to effectuate such mechanic's and materialmen's lien in favor of the Association.

Section 9. Title to Proceeds. Any proceeds of insurance collected by the Association and any Special Assessment collected by the Association pursuant to the provisions of Sections 6 and 7 above shall at all times remain the property of the Owner or Owners affected by the circumstances causing such proceeds to be paid or such assessments to be levied; and title thereto shall not pass to the Association. All such proceeds and assessments shall be deposited in a trust account or accounts to be maintained by the Association and shall not commingled with funds belonging to the Association, the Association to act as the special agent or trustee of the Owner or Owners in the handling and disposition of such funds. The agency hereby created shall be irrevocable, it being for the benefit of all Owners, unless revoked by the concurrence of two-thirds (2/3) of the votes in person or by proxy at a meeting duly called for such purpose, at which meeting the presence of members or of proxies entitled to cast seventy percent (70%) of all of the votes shall constitute a quorum.

ARTICLE X

Environmental Control

Section 1. Construction of Improvements. Since the maintenance of environmental and architectural harmony and unity is essential for the preservation and enhancement of the value of the Lots and the harmonious functioning of the community affected hereby, no improvements may be erected on any Lot by anyone other than the Declarant or an assignee of Declarant without the approval of the Environmental Control Committee (as such term is hereinafter defined) appointed by the Association. The term "improvements" shall include but shall not be limited to the erection of any structure, including but not limited to additions to or alterations of any buildings, detached buildings, storage buildings, tool sheds, kennels, or other buildings for the care of animals, and greenhouses; the erection of any fence; the moving of any structure from another locality to a Lot; the grading, scraping, excavation or other rearranging of the surface of any Lot; the construction of any driveway, alleyway, walkway, entryway, patio or other similar item; the alteration or replacement of any exterior surface, including the repainting of any painted surfaces and the painting of formerly unpainted surfaces; and the planting, replanting or rearrangement of any plant life visible from another Lot, the Common Area, or any public street.

Section 2. Environmental Control Committee. The Board of Directors of the Association shall appoint an Environmental Control Committee composed of at least three (3) persons to approve improvements proposed to be made by any Owner other than the Declarant. The Environmental Control Committee shall meet within

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fifteen (15) days after an Owner has made application to it for approval, submitting at that time two (2) sets of plans and specifications. The Environmental Control Committee shall render its decision within thirty (30) days after this meeting, either approving the plans or disapproving them, in the latter case making specific reference to those features which caused the disapproval. Approval may be conditioned upon completion within a specified period of time. All decisions shall be made by a majority vote of the Environmental Control Committee. A failure of the Committee to act will result in the project being considered approved.

2-23-2375

ARTICLE XI

Easement and Rights

Section 1. General Easement. The Declarant, so long as it shall retain record title to any Lot, and the Association, reserve the right and easement to the use of the Common Area and any Lot or any portion thereof, as may be needed for repair, maintenance, or construction on such Lot or any other Lot or the Common Area.

Section 2. Crossover Easement. If the Owner (including the Declarant) of any Lot must, in order to make reasonable repairs or improvements to a building on his lot, enter or cross the Common Area or a Lot of another Owner, such Owner shall have an easement to do so; provided that such Owner shall use the most direct, feasible route in entering or crossing over such an area and shall restore the surface so entered or crossed to its original condition at the expense of said Owner and further provided such easement shall not exist on the land of any other Lot Owner if the purpose for the entrance or crossing is one requiring, by virtue of Article XI of this Declaration, approval of the Environmental Control Committee of the Association, unless such approval has been given.

Section 3. Alteration Easement. If the Owner (including the Declarant) of any Lot, must, in order to make reasonable repairs or improvements to a building on such Lot, alter the building of any other person, said Owner shall have the right to do so; provided that said Owner shall (i) create as little alteration as possible consistent with good building and engineering practices, (ii) promptly restore the building altered to its original condition at the expense of said Owner, and (iii) provide such bonding as the Owner of the building to be altered shall reasonably require; and further provided such alteration shall not be allowed if the purpose for which the alteration must occur is one requiring, by virtue of Article X of this Declaration, approval of the Environmental Committee of the Association, unless such approval has been given.

Section 4. Encroachment Easement. If any structure erected or reconstructed by Declarant or by an Owner with the approval of the Environmental Control Committee shall encroach on the Lot of an adjoining Owner, the latter grants to such Owner an easement permitting the persistence of such encroachment. In addition, an overhang easement is granted to any Owner whose eaves, gutters or similar items overhang a reasonable distance or about the Lot of another Owner.

Section 5. Drainage Easement. Each Owner covenants to provide such easements for drainage and waterflow as the contours of the land and the arrangement of buildings by Declarant thereon requires.

Section 6. Utility Easement. An easement of ingress and egress is hereby granted on all Lots and the Common Areas in favor of any utility company for the purpose of the repair, construction and maintenance of all utility lines; provided, however, no new utility line may be constructed or no existing utility line may be relocated without the approval of the Environmental Control Committee.

Section 7. Blanket Easement. An easement is hereby retained in favor of Declarant and the Association over the Lots and the Common Areas for the construction of a common cable television system, a common sprinkler, or any other item for the common benefit of the Owners. An easement is further granted for the purpose of the repair and maintenance of any item so constructed. An entry upon any Lot or the Common Areas to effectuate the foregoing purposes shall not be deemed trespass. Each Owner covenants not to damage or destroy any portion of an item so constructed and shall hold the Association and/or Declarant harmless for the cost of repairing or replacing any portion damaged or destroyed by such Owner, his family, his guests and invitees.

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ARTICLE XII

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Deviations

Section 1. The Association may grant approval for deviations from the restrictions provided in Article VIII. Such approval shall require the affirmative vote of two-thirds (2/3) of the Members of each class voting at a meeting duly called for this purpose, written notice of which shall be delivered to all Members not less than ten (10) days nor more than fifty (50) days before the date of the meeting, setting forth the purposes of the meeting. Deviations from the provisions of Section 6, Section 8, and Section 16 of Article VIII shall not require such approval.

2-23-2316

ARTICLE XIII

Protection of Mortgagees

Section 1. Notice to Association. An Owner who mortgages his Lot shall notify the Association, giving the name and address of the mortgagee. Each mortgagee shall be permitted to notify the Association of the fact that such mortgagee holds a deed of trust or mortgage on a Lot. The Association shall maintain a record of such information.

Section 2. Examination of Books. The Association shall permit first mortgagees to examine the books and records of the Association during normal business hours.

Section 3. Annual Audits. The Association shall furnish to each first mortgagee of which it has notice an annual audited financial statement of the Association within ninety (90) days following the end of the fiscal year of the Association.

Section 4. Notice of Meetings. The Association shall furnish each first mortgagee upon request of such first mortgagee, prior written notice of all meetings of the Association and permit the designation of a representative of such mortgagee to attend such meetings, one (1) such request to be deemed to be a request for prior written notice of all subsequent meetings of the Association.

Section 5. Notice of Default. The Association shall notify a first mortgagee in writing, upon request of such mortgagee, of any default by the mortgagor in the performance of such mortgagor's obligations as set forth in this Declaration which is not cured within thirty (30) days.

Section 6. Approval for Amendments. The prior written approval of each first mortgagee shall be required for: (a) any material amendment to the Declaration or to the By-laws of the Association; or (b) the effectuation of any decision by the Association to terminate professional management and assume self-management of the project.

Section 7. Notice of Damage or Destruction. The Association shall furnish the first mortgagees timely written notice of any substantial damage or destruction of the building on any lot if such loss exceeds One Thousand Dollars and of any part of the Common Area and facilities if such loss exceeds Ten Thousand Dollars.

Section 8. Notice of Condemnation Proceedings. The Association shall in writing notify each first mortgagee of which it has notice of any condemnation or other similar proceedings or proposed proceedings relating to any of the Properties or improvements thereon.

Section 9. Other Acts Requiring Approval. Except as to the Association's right to grant easements for utilities and similar related purposes, the Association shall not alienate, transfer, hypothecate, or otherwise encumber any of the Common Area or the facilities thereon without the prior written approval of all of the first mortgage holders of record.

ARTICLE XIV

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General Provisions

2-23-237

Section 1. Enforcement. The restrictions herein set forth shall run with the land and bind the present Owner except as otherwise provided, its successors and assigns, and all parties claiming by, through or under it, shall be taken to hold, agree and covenant with the Owner of said land, its or their heirs, personal representatives, successors and assigns, and with each of them, to conform to and observe said restrictions as to the use of said Lots and the construction of improvements thereon. No restriction herein set forth shall be personally binding on any Person except in respect to breaches committed during his ownership of title to this Lot. No action for enforcement of these covenants may be commenced until the procedure specified in Article IX, Section 2 or Section 3 as appropriate, has been completed. Afterwards, the Association or any Owner, shall have the right, if any such dispute is not resolved by arbitration, to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens or charges now or hereafter imposed by the provisions of this Declaration. Failure of any Owner or Owners or the Association to enforce any of the restrictions herein set forth shall in no event be deemed a waiver of the right to do so or to enforce other restrictions.

Section 2. Invalidation. The invalidation of any of the covenants or restrictions set forth herein by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Right to Assign. The Declarant may, by appropriate instrument, assign or convey to any person any or all of the rights, reservations, easements, and privileges herein reserved by the Declarant, and upon such assignment or conveyance being made, its assigns or grantees may, at their option, exercise, transfer or assign such rights, reservations, easements and privileges or any one or more of them at any time or times in the same way and manner as those directly reserved by them or it in this instrument.

Section 4. Duration and Amendment. All of the restrictions set forth herein shall continue and be binding for a period of thirty (30) years from the date of this instrument and shall automatically be extended thereafter for successive periods of ten (10) years; provided, however, that the Owners of three-fourths (3/4) of the Lots may, at the end of such thirty (30) year term or at the end of any successive ten (10) year period thereafter, by a written instrument signed by all of such Persons, vacate or modify all or any part of this Declaration. During the initial thirty (30) year period a vacation or modification hereof shall be effective if a written instrument be signed by ninety percent (90%) of the Owners of the Lots. Any such vacation or modification shall be filed of record in the Travis County Deed Records promptly when executed. In order for any such amendment to be effective as to the holder of any lien on any Lot, such amendment must be executed by at least seventy five (75)% of the holders of first liens (based upon one vote for each Lot so mortgaged).

Section 5. Notices. All notices given or required to be given by the Association to its Members shall be deemed to have actually been given if actually received and, whether or not actually received, when deposited in the United States mail, postage prepaid, and addressed to the Member at his address as it appears on the books of the Association, and shall be deemed given when mailed.

Section 6. FHA/VA Provisions. If Declarant shall decide that the Lots should have available permanent loans insured by the Federal Housing Administration or guaranteed by the Veterans Administration, the following provisions shall apply, notwithstanding anything herein to the contrary.

(a) As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration.

(b) Declarant may, by appropriate instrument recorded in the Deed Records of Travis County, Texas, amend this Declaration to conform to the requirements specified by the Federal Housing Administration or Veterans Administration for approval as a loan-guaranty project.

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Section 7. Diminution or Abatement. No assessment of any character in this Declaration provided for may be abated or diminished or allowed or claimed for inconveniences or discomfort arising from the making of repairs or improvements to the Common Areas of Lots or from any action taken to comply with any law, ordinance or order of a governmental authority.

Section 8. Annexation of Additional Properties. Additional land within the areas described at Volume 6563, page 1596, of the Deed Records of Travis County, Texas, may be annexed hereto by the Declarant without the consent of the Association or, any of the members thereof, provided, that such annexation shall not be binding upon FHA or VA unless FHA or VA determines that the annexation is in accord with the general plan heretofore approved by them. When so annexed, any and all such additional land shall be subject to all of the provisions hereof as though originally included herein and shall be subject to the jurisdiction of the Association.

2-22-3370

Section 9. Exempt Property. All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Texas shall be exempt from any assessment provided for herein.

Section 10. Management Agreements. Any management agreement entered into by the Association relating to the Properties shall be terminable by the Association for cause upon thirty days written notice thereof. The term of any such management agreement may not exceed one year, although it may provide that it is renewable by agreement of the parties for successive one year periods.

Section 11. No Right of First Refusal. The right of the Owner of any Lot to sell, transfer or otherwise convey his Lot shall not be subject to any right of first refusal or other similar restriction in favor of the Association.

Section 12. Supercedes Other Declarations. This Declaration amends and supercedes all other Declarations pertaining to The Woodlands of Austin.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, said Declarant being the sole and only owner of all of the property described in the Plat Records of The Woodlands of Austin, as recorded in Volume 78, page 62 of the Plat Records of Travis County, Texas, has hereunto set its hand and seal this the 12th day of February, 1980.

THE WOODLANDS OF AUSTIN, INC.

NO SEAL

By Joe R. Dobson
President

STATE OF TEXAS)
)
COUNTY OF TRAVIS)

Before me, the undersigned authority, on this day personally appeared JOE R. DOBSON, the President of The Woodlands of Austin, Inc., 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, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 12th day of February, 1980.

NOTARY SEAL

Vaneta M. Gebert
Notary Public in and for Travis County,
Texas

VANETA M. GEBERT
My Commission Expires January 30, 1981

EXHIBIT "A"

~~2-22-3523~~

DESCRIBING 5.775 ACRES OF LAND IN THE JAMES MITCHELL SURVEY NO. 17, TRAVIS COUNTY, TEXAS: SAID 5.775 ACRES BEING OUT OF AND A PART OF THAT CERTAIN 19.66 ACRE TRACT CONVEYED TO JOE R. DOBSON, TRUSTEE, BY ALLEN R. RUNDELL BY WARRANTY DEED DATED DECEMBER 30, 1978, AND FILED FOR RECORD MARCH 8, 1979 IN VOLUME 6498 BEGINNING AT PAGE 652, DEED RECORDS OF TRAVIS COUNTY, TEXAS: SAID 5.775 ACRES BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

2-23-2379

BEGINNING at the most southerly corner of the HSR Subdivision of record in Book 64, Page 77, Plat Records of Travis County, Texas, said point being in the southeasterly right-of-way line of Kerithdale Drive;

THENCE in a clockwise direction the following eighteen (18) courses:

With the south easterly right-of-way line of the aforesaid Kerithdale Drive by course (1):

- 1) N 27°28'00"E, 108.85 feet to an iron pin set at the south-westerly corner of a proposed commercial tract of land;

Through the interior of said 19.66 acre tract by courses (2), (3), and (4):

- 2) S 58°57'00"E, 541.41 feet;
- 3) N 54°34'00"E, 11.70 feet;
- 4) S 35°26'00"E, 167.23 feet to a point in the northerly line of Lot 1 Block D, Balcones Hills, Section Three, Book 40, Page 50, Plat Records of Travis County, Texas;

With the northwesterly line of said Balcones Hills, Section Three by courses (5) thru (9):

- 5) S 53°58'27"W, 94.79 feet to an iron pin found;
- 6) S 51°45'00"W, 44.77 feet to a point;
- 7) S 53°03'00"W, 29.50 feet to a point;
- 8) S 54°58'38"W, 101.56 feet to an iron pin found;
- 9) S 34°50'00"W, 45.98 feet to a P.I. on the rear lot line of Lot 12 of said Section Three;

Through the interior of said 19.66 acre tract by courses (10) thru (18):

- 10) N 59°20'00"W, 120.12 feet;
- 11) S 30°40'00"W, 172.87 feet;
- 12) N 59°20'00"W, 90.08 feet to the P.C. of a curve to the right;
- 13) Chord bearing N 29°35'00"W, 223.30 feet, CA = 59°30'00", R = 225.00 feet, T = 128.60 feet, A = 233.66 feet;
- 14) N 89°50'00"W, 40.96 feet;
- 15) N 62°35'00"W, 114.75 feet to a point on a curve to the left, on the future right-of-way of Kerithdale Drive;
- 16) Chord bearing N 26°06'14"E, 85.00 feet, CA = 1°56'28", R = 2508.97 feet, T = 42.50 feet, A = 85.00 feet;
- 17) N 25°08'00"E, 152.17 feet to the P.C. of a curve to the right;
- 18) Chord bearing N 26°18'00"E, 99.98 feet, CA = 2°20'00", R = 2455.19 feet, T = 50.00 feet, A = 99.99 feet, to the POINT OF BEGINNING and containing 6.344 acres or 276,375 square feet, SAVE AND EXCEPT the following described 0.569 acre:

~~2-22-3524~~

2-23-2380

BEGINNING at a point on the future easterly right-of-way of proposed 50 foot wide street at a point from which the ending point of course (13) in the above described 6.344 acre tract bears N 89°50'00"W, 50.00 feet:

THENCE through the interior of said 19.66 acre tract in a clockwise direction by the following ten (10) courses:

- 1) N 00°10'00"E, 53.60 feet to the P.C. of a curve to the right;
- 2) Chord bearing N 07°25'38"E, 44.23 feet, CA = 14°31'17", R = 175.00 feet, T = 22.30 feet, A = 44.35 feet,
- 3) S 58°57'00"E, 130.25 feet;
- 4) S 18°40'00"E, 33.32 feet;
- 5) S 30°40'00"W, 54.54 feet;
- 6) S 59°20'00"E, 80.00 feet;
- 7) S 30°40'00"E, 80.89 feet to the P.C. of a curve to the right;
- 8) Chord Bearing S 75°40'00"W, 21.21 feet, CA = 90°00'00", R = 15.00 feet, T = 15.00 feet, A = 23.56 feet;
- 9) N 59°20'00"W, 25.08 feet;
- 10) N 29°35'00"W, 173.68 feet, CA = 59°30'00", R = 175.00 feet, T = 100.02 feet, A = 181.73 feet, to the POINT OF BEGINNING and containing 0.569 acres or 24,791 square feet making a net area of 5.775 acres or 251,584 square feet

~~2-22-3525~~

2-23-2381

EXHIBIT "B"

COMMON AREAS:

Lots 93, 94 and 96 of The Woodlands of Austin, as recorded in Volume 78, Page 62, of the Plat Records of Travis County, Texas.

FILED
FEB 13 8 21 AM '00
David S. Thompson
COUNTY CLERK
TRAVIS COUNTY, TEXAS

STATE OF TEXAS COUNTY OF TRAVIS
I hereby certify that this Instrument was FILED on the date and at the time stamped hereon by me; and was duly RECORDED, in the Volume and Page of the named RECORDS of Travis County, Texas, as Stamped hereon by me, on

FEB 13 1900



David S. Thompson
COUNTY CLERK
TRAVIS COUNTY, TEXAS

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