

107-94-2402

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

SHEPHERD TRACE

THE STATE OF TEXAS §
COUNTY OF HARRIS § KNOW ALL MEN BY THESE PRESENTS:
 §

THAT this Declaration is made on the date hereinafter set forth by SUPFOLK, INC., a Texas corporation, hereinafter referred to as "Declarant";

W I T N E S S E T H:

WHEREAS, Declarant is the owner of that certain real property known as Shepherd Trace, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 278, Page 78 of the Map Records of Harris County, Texas, being 18.5259 acres out of the William Hardin Survey, Abstract 24, Harris County, Texas; and

WHEREAS, it is deemed to be in the best interests of Declarant and any other persons who may purchase property in Shepherd Trace that there be established and maintained a uniform plan for the improvement and development of Shepherd Trace as a highly restricted and modern subdivision of the highest quality;

NOW, THEREFORE, Declarant hereby declares that all of the properties described above as Shepherd Trace shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said real property. These easements, covenants, restrictions and conditions shall run with said real property and be binding upon all parties having or acquiring any right, title, or interest in said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of, and be a burden on, each owner thereof.

Ken
Keith Short

Forsgren, U.S.S., et al.

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ARTICLE I

Definitions

Section 1. "Association" shall mean and refer to Shepherd Trace Homeowners Association, Inc., a Texas non-profit corporation, its successors and assigns.

Section 2. "Common Area" shall mean and refer to any land now or hereafter owned or acquired by the Association for the common use and enjoyment of the Members of the Association.

Section 3. "Declarant" shall mean and refer to Suffolk, Inc., a Texas corporation, its successors and assigns.

Section 4. "Lot" shall mean and refer to any of the numbered plots of land shown on the recorded map or plat of the Subdivision.

Section 5. "Living Unit" shall mean and refer to any improvements on a Lot which are designed and intended for occupancy and use as a residence by one person, by a single family, or by persons living together as a single housekeeping unit.

Section 6. "Occupied Living Unit" shall mean and refer to any Living Unit in which one or more persons are residing.

Section 7. "Member" shall mean and refer to every person or entity who holds a membership in the Association.

Section 8. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Subdivision, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. However, the term "Owner" shall include any mortgagee or lien holder who acquires fee simple title to any Lot through judicial or non-judicial foreclosure.

Section 9. "Subdivision" shall mean and refer to Shepherd Trace, a subdivision in Harris County, Texas, according to the map

or plat thereof recorded in Volume 278, Page 78 of the Map Records of Harris County, Texas.

ARTICLE II

Property Rights

Section 1. Non-Existence of Common Area: There is no Common Area at this time. In the event that the land designated as Reserve A on the plat of the Subdivision referred to in Article I, Section 9 hereof is acquired by the Association or any other land is acquired by the Association in accordance with Article I, Section 2 hereof, the provisions hereof relating to Common Area shall apply.

Section 2. Owner's Easement of Access and Enjoyment: Every Owner shall have an easement of access and a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

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

(b) The right of the Association to suspend a Member's voting rights and right to use the recreational and other facilities owned or operated by the Association, excluding domestic water, for any period during which any assessment against his Lot or any other sum due the Association by him remains unpaid; and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations; and

(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;

Section 3. Delegation of Use: Any Owner may delegate, in accordance with the By-laws of the Association, his right of enjoyment to the Common Area and facilities to members of his family, his tenants, or contract purchasers who reside on the Lot owned by him. The Declarant, for each Lot owned within the Subdivision, hereby covenants, and each Owner of any Lot, by acceptance of a

Deed therefor, whether it shall be express in the Deed or other evidence of the conveyance, is deemed to covenant that any lease executed on a Lot shall be in writing and contain provisions binding any lessee thereunder to the terms of this Declaration of Covenants, Conditions and Restrictions and any rules and regulations published by the Association applicable to the Lot and further providing that non-compliance with these terms of the lease shall be a default thereunder.

Section 4. Title to the Common Area: The Common Area shall remain undivided and shall at all times be owned by the Association or its successors, it being agreed that this provision is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Common Area. Notwithstanding the above, the Association shall have the right to grant, convey, dedicate or reserve easements over, on or under any Common Area for utility services as set forth in Article IX, Section 1 hereinafter.

ARTICLE III

Membership and Voting Rights

Section 1. Membership: Every Owner shall hold a membership in the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Ownership of a Lot shall be the sole qualification for membership. Any mortgagee or lien holder who acquires title to any Lot which is a part of the Subdivision, through judicial or non-judicial foreclosure, shall be a Member of the Association.

Section 2. Voting Rights: There shall be two classes of membership entitled to voting rights in the Association and they shall be as follows:

(a) Class A: All Members of the Association shall be considered Class A Members. Such Class A Members of the Association will have a non-voting membership in the Association until January 1, 1981. After such time each Class A Member shall be entitled to one (1) vote for each

Lot owned, on each matter coming before the Members at any meeting or otherwise, unless his voting rights have been suspended by the Board of Directors as provided in Article II Section 1(b). In the event a particular Lot is owned by more than one individual or entity, all of the individuals or entities holding an ownership interest in that Lot shall be considered Class A Members; however, for that particular Lot they shall be entitled to a total of no more than one (1) vote on each matter coming before the Members at any meeting or otherwise. The vote for such Lot shall be exercised as they among themselves determine. The vote of any Lot standing in the name of a man and his wife may be cast by either of them in person or by a proxy duly signed by both of them. The vote of any Lot standing in the name of a corporation may be voted by such officer, agent or proxy as the By-laws of such corporation prescribe. The vote of any Lot standing in the name of an administrator, executor, or guardian may be voted by such administrator, executor or guardian so long as such Lot has not been distributed from, and forms a part of, the estate being served by him, either in person or by proxy.

(b) Class B. Class B Members shall be those individuals or entities who are herein defined as Declarant, and shall be entitled to one (1) vote on each matter coming before the Members at any meeting or otherwise prior to January 1, 1981. Such vote shall be exercised as they among themselves determine. After January 1, 1981 the Class B Membership and all voting rights associated with such shall terminate.

Section 3. Required Vote. The vote of the majority of the votes entitled to be cast by the Members present, or represented by proxy, at a meeting at which a quorum is present, shall be the act and decision of the Members, unless the vote of a greater number is required by law, the Articles of Incorporation or By-laws of the Association or this Declaration.

ARTICLE IV

Covenant for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation for Assessments: The Declarant, for each Lot within the Subdivision, hereby covenants, and each Owner of each Lot within the Subdivision, by acceptance of a Deed therefor, whether or not it shall be express in the Deed or other evidence of the conveyance, is deemed to covenant and agree to pay the Association the following:

- (a) Annual assessments or charges;
 - (b) Special assessments for capital improvements;
- and

(c) Any other sums to the extent they are specifically provided for elsewhere in this instrument.

Such assessments or charges are to be fixed, established and collected as hereinafter provided. These charges and assessments, together with such interest thereon and cost of collection thereof, as hereinafter provided, shall be a charge on the land and shall be secured by a continuing Vendor's Lien upon the Lot against which such assessments or charges are made. Each such assessment or charge, together with such interest, costs, and reasonable attorney's fees shall also be and remain the personal obligation of the individual or individuals who owned the particular Lot at the time the assessment or charge fell due notwithstanding any subsequent transfer of title to such Lot. The personal obligation for delinquent assessments and charges shall not pass to successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments: The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Subdivision. Without limiting the foregoing, the total assessments accumulated by the Association, insofar as the same may be sufficient, shall be applied toward the payment of all taxes, insurance premiums and repair, maintenance and acquisition expenses incurred by the Association and at the option of the Board of Directors of the Association for any or all of the following purposes: lighting, improving and maintaining streets, alleyways, sidewalks, paths, parks, parkways, and esplanades in the Subdivision; collecting and disposing of garbage, ashes, rubbish and materials of a similar nature; payment of legal and all other expenses incurred in connection with the collection, enforcement and administration of all assessments and charges and in connection with the enforcement of this Declaration of Covenants, Conditions and Restrictions; employing policemen or watchmen and/or a

security service; fogging and furnishing other general insecticide services; providing for the planting and upkeep of trees and shrubbery on esplanades and in any Common Area; acquiring and maintaining any amenities or recreational facilities that are or will be operated in whole or in part for the benefit of the Owners; and doing any other thing necessary or desirable in the opinion of the Board of Directors of the Association to keep and maintain the property in the Subdivision in neat and good order, or which they consider of general benefit to the Owners or occupants of the Subdivision, including the establishment and maintenance of a reserve for repair, maintenance, taxes, insurance, and other charges as specified herein. Such funds may also be used to repair, maintain and restore abandoned or neglected residences and Lots as hereinafter provided. It is understood that the judgment of the Board of Directors of the Association in establishing annual assessments, special assessments and other charges and in the expenditure of said funds shall be final and conclusive so long as said judgment is exercised in good faith.

Section 3. Basis and Maximum Level of Annual Assessments:
Until January 1 of the year immediately following the conveyance of the first Lot from Declarant to an Owner, the maximum annual assessment shall be not more than One Hundred and No/100 Dollars (\$100.00) per Lot. From and after January 1 of the year immediately following the conveyance of the first Lot from Declarant to an Owner, the maximum annual assessment may, at the option of the Board of Directors, be automatically increased, effective January 1 of such year following the conveyance of the first Lot from Declarant to an Owner and each year thereafter, in conformance with the rise, if any, in the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for the twelve month period ending with the last day of the preceding June

or alternatively, by an amount equal to a ten percent (10%) increase over the prior year's maximum annual assessment, whichever is greater, without a vote of the Members of the Association. If the Consumer Price Index shall cease to be published, the rise for the period stated above in the successor or, if there is no successor, comparable Index or statistics published by the United States Government shall be used for making the calculation described in the preceding sentence. From and after January 1 of the year immediately following the conveyance of the first Lot by Declarant to an Owner, the maximum annual assessment may be increased above that established by the Consumer Price Index formula or the above-mentioned percentage increase only by written approval of the Members holding two-thirds (2/3) of all membership votes entitled to be cast in each membership class that is entitled to vote at the time the action is taken. This increase shall become effective on January 1 of the year following the year in which such approval is obtained. After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at an amount not in excess of the maximum amount approved by the Owners.

Section 4. Special Assessments for Capital Improvements: In addition to the annual assessment 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 construction, reconstruction, equipment or unexpected repair in the Subdivision or any Common Area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the written approval of the Members holding two-thirds (2/3) of all membership votes entitled to be cast in each membership class that is entitled to vote at the time the action is taken.

Section 5. Notice of Quorum for Any Action Authorized Under Sections 3 and 4: Written notice of any meeting of the Members of the Association 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 ten (10) days nor more than fifty (50) days in advance of the meeting. At any such meeting called, the presence of the Members holding two-thirds (2/3) of all membership votes entitled to be cast in each membership class that is entitled to vote at the time of such meeting or their proxies shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice and quorum requirements. In lieu of such a meeting and notice, a door-to-door canvass may be used to get the required written approval of the Owners as hereinafter provided.

Section 6. Rates of Assessment: Any annual and special assessments and other authorized charges shall be assessed against all Lots, whether or not owned by the Declarant, and must be fixed at uniform rates as follows:

(a) Occupied Lots: Those Lots containing an Occupied Living Unit shall be assessed or charged the full assessment or charge as set by the Board of Directors of the Association;

(b) Completed Lots: Those Lots containing a substantially completed but unoccupied Living Unit, shall be assessed or charged fifty percent (50%) of the full assessment or charge as set by the Board of Directors of the Association; and

(c) Vacant Lots: Those Lots which are vacant or upon which a residence is under construction shall be assessed or charged at a rate equal to fifty percent (50%) of the full assessment or charge as set by the Board of Directors of the Association. If such Owner fails to maintain said Lot, the Association is hereby authorized to do so and any expense the Association incurs thereby shall become a lien on the Lot and the general personal obligation of said Owner.

The determination of which of the three above categories a Lot is in shall be determined as of January 1 of each calendar year and shall not change during that calendar year.

Section 7. Date of Commencement and Determination of Annual Assessment: The annual assessment provided for herein shall commence as to all Lots on the first day of the month following the decision of the Board of Directors to establish same pursuant to Article IV, Section 3 hereof. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. On or before the 30th day of November in each year, the Board of Directors of the Association shall determine whether such annual assessment should continue to be levied against each Lot in the next calendar year. If it is determined by the Board of Directors that continuance of such assessment is warranted, written notice of the figure at which the Board of Directors of the Association has set the annual assessment for the next calendar year shall be sent to every Owner whose Lot is subject to the payment thereof. Assessments shall be due and payable monthly or as directed by the Board of Directors of the Association. The Association shall, upon demand, and for 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 particular 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 assessments or charges which are not paid when due shall be delinquent. If an assessment or charge is not paid within thirty (30) days after the due date, it shall bear interest from the due date at the rate of ten percent (10%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien herein retained against the Lot. Interest, costs and reasonable attorney's fees incurred in any such action shall be added to the amount of such assessment or charge. Each such Owner, by his

acceptance of a Deed to a Lot, hereby expressly vests in the Association or its agents, the right and power to bring all actions against such Owner personally for the collection of such assessments and charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien foreclosure on real property, and such Owner expressly grants to the Association a power of sale and non-judicial foreclosure in connection with said lien. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of any Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages: As hereinabove provided, the title to each Lot shall be subject to the Vendor's Lien securing the payment of all assessments and charges due the Association, but this Vendor's Lien shall be subordinate to any valid purchase money lien or mortgage covering a Lot. Sale or transfer of any Lot shall not affect this Vendor's Lien. However, the sale or transfer of any Lot which is subject to any valid purchase money lien or mortgage, pursuant to a judicial or non-judicial foreclosure under such lien or mortgage shall extinguish the Vendor's Lien securing such assessment or charge as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot or the Owner thereof from liability for any charges or assessments thereafter becoming due or from the lien thereof. In addition to the automatic subordination provided hereinabove, the Association, in the discretion of its Board of Directors, may subordinate the lien securing any assessment provided for herein to any non-purchase money mortgage, lien or encumbrance, subject to such limitations, if any, as such Board may determine.

Section 10. 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 the assessments and charges created herein. Notwithstanding the foregoing, no Lot which is used as a residence shall be exempt from said assessments and charges.

ARTICLE V

Insurance

Section 1. Coverage: The Association, through the Board of Directors, or its duly authorized agent, shall have the authority to obtain the following types of insurance policies:

(a) Property insurance covering any Common Area and all improvements thereon in an amount up to the full replacement value of the improvements and facilities located upon any Common Area and owned by the Association (including all building service equipment and the like) with an "agreed amount endorsement" or its equivalent, a "demolition endorsement" or its equivalent, and, if necessary, an "increased cost of construction endorsement" or "contingent liability from operation of building laws endorsement" or the equivalent, affording protection against loss or damage by fire and other hazards covered by the standard extended coverage endorsement in Texas, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage, and any such other risk as shall customarily be covered with respect to projects similar in construction, location and use;

(b) A comprehensive policy of public liability insurance covering any Common Area and insuring the Association within such limits as it may consider acceptable; such coverage to include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others, and any other coverage the Association deems prudent and which is customarily carried with respect to projects similar in construction, location, and use; and

(c) A policy of fidelity coverage to protect against dishonest acts on the part of officers, directors, trustees, and employees of the Association and all others who handle, or are responsible for handling funds of the Association; such fidelity bonds shall be of the kind and in an amount the Board of Directors of the Association deems necessary for the protection of the Owners.

Section 2. Premiums and Proceeds: Premiums for all such insurance policies carried by the Association shall be a common

expense payable by assessments on all of the Lots. Liability and property insurance for Lots and the contents of residences shall be the responsibility of each individual Owner. All proceeds from policies held by the Association shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a federal governmental agency, with the proviso agreed to by said bank or institution that such funds may be withdrawn only by signature of at least two (2) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors. In no event shall the insurance company or the bank or other financial institution holding proceeds on a policy issued in the name of the Association be authorized to distribute any proceeds therefrom to the Declarant. Proceeds from such policies shall be used by the Association only for the benefit of its Members and where such proceeds arise out of an occurrence in which a building, equipment or improvement owned by the Association is damaged or destroyed, they shall be used to repair, replace and rebuild such building, equipment or improvements, unless otherwise approved in writing by the Owners of two-thirds (2/3) of the Lots, which approval shall be obtained using the procedures set out in Article IV, Section 5 hereof. In the event of repair, replacement or rebuilding the Board of Directors shall advertise for sealed bids from licensed contractors, and upon acceptance of a bid received thereby, may negotiate with the contractor, who shall be required to provide a full performance and payment bond for the repair, replacement and/or rebuilding of such damaged or destroyed improvements, equipment or buildings. In the event the insurance proceeds are insufficient to pay all costs of repairing and/or rebuilding said improvements, or equipment to its original condition, the Association shall levy a special assessment for capital improvements against all Owners to make up the

deficiency. This shall be done only after compliance with all the requirements for imposition of special assessments.

ARTICLE VI

Architectural Control

Section 1. Architectural Control Committee: There is hereby created an Architectural Control Committee (herein referred to as the "Committee") comprised of Samuel F. Marshall, Nicholas J. Palermo and Richard Chamberlain, all of Harris County, Texas, each of whom shall serve until his successor is appointed. Any two (2) of the members of the Committee shall have the full authority and power to act for the Committee. In the event any of the said members of the Committee should die, resign, refuse to act, or become unable or ineligible to act, the remaining member or members shall have the authority to designate a successor. No member of the Committee or its designated representative(s), as herein defined, shall be entitled to any compensation for services performed pursuant to this Article. The Committee may, however, employ one or more architects, engineers, attorneys or other consultants to assist the Committee in carrying out its duties hereunder, and the Association shall pay such consultants for such services as they render to the Committee.

Section 2. Duties and Powers: The purpose of the Committee is to protect the environmental integrity of the Subdivision in accordance with the provisions of this Declaration. No building, fence, wall or other structure or improvement of any nature shall be placed, constructed, erected or maintained on any Lot, nor shall any exterior addition to or change or alteration therein be made until the construction plans and specifications shall have been submitted to and approved in writing by the Committee as to (a) conformity and harmony of external design and location in relation to surrounding structures and topography, and (b) quality of

workmanship and materials. Any plans and specifications to be submitted shall specify, in such form as the Committee may reasonably require, the location upon the lot where the improvements are to be placed and the dimensions thereof as well as appropriate information concerning the structural, mechanical, electrical and plumbing details and the nature, kind, shape, height, color scheme and materials of the proposed improvements or alterations. The Committee shall also have the right, where not otherwise set forth herein or on the plat of the Subdivision referred to in Article I, Section 9 hereof, to specify:

- (a) Minimum setbacks;
- (b) The location, height and extent of fences, walls, or other screening devices;
- (c) The orientation of structures and landscaping on lots with respect to streets, walks and structures on adjacent properties; and
- (d) A limited number of acceptable exterior materials and/or finishes that may be used in the construction, alteration or repair of any improvement.

Section 3. Committee Approval: A majority of the Committee may designate one or more representatives with authority to grant the approval herein required. Any approval or disapproval by the Committee or its designated representative(s) on any of the above matters shall be in writing and either delivered in person or by certified mail, return receipt requested, postage prepaid. Such approval or disapproval shall be deemed to have been given when delivered in person or, if sent through the United States mail, when deposited in such mail. In the event said Committee or its designated representative(s) fails to give approval or disapproval within thirty (30) days after said plans and specifications have been submitted to it, or if no plans and specifications have been submitted and (1) notice of disapproval of construction is not given in the manner specified for approvals or disapprovals of plans and specifications within ninety (90) days after construction commences, and (2) no suit to enjoin construction or the

making of alterations has been filed within ninety (90) days after the completion of construction or alterations, such approval of plans and specifications will not be required and this covenant shall be deemed to have been complied with; provided, however, the necessity for compliance with all the remaining provisions of this Declaration of Covenants, Conditions and Restrictions shall not be waived or affected by the Committee's failure to act, nor shall compliance with this Article VI with regard to other construction or alterations be waived or affected.

Section 4. Term: The duties and powers of the members of the Committee herein named, their successors, assigns and designated representative(s), shall cease on and after January 1, 1983. Thereafter, the duties and powers of the Committee shall vest in the Board of Directors of the Association who shall serve as the Committee until such Board appoints three (3) new members for the Committee. The submission and approval provisions of this Article and the duties and powers vested in the Committee and its successors shall continue so long as this Declaration of Covenants, Conditions and Restrictions remains in force and effect. Prior to January 1, 1983, the then current members of the Committee may voluntarily transfer all their duties and powers to the Board of Directors of the Association. To be effective, such a transfer shall be evidenced by a document executed by each of the then current members of the Committee. At such time as the Board of Directors of the Association appoints three (3) new members of the Committee, the Committee shall cease to have the self-perpetuating power granted in Section 1 of this Article and members of the Committee shall thereafter serve on the same terms and conditions as officers of the Association.

ARTICLE VII

Exterior Maintenance

In the event any Owner of any Lot in the Subdivision fails to maintain the Lot and the improvements situated thereon in a manner

satisfactory to the Board of Directors of the Association, the Association, after seven (7) days' notice to the Owner of said Lot, setting forth the action intended to be taken by the Association and after approval by a two-thirds (2/3) vote of the Board of Directors, shall have the right (but not the obligation) through its agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and the exterior of the buildings and any other improvements located thereon. 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 (but not the obligation), through its agents and employees, to enter any residence or improvement located upon such Lot. Neither the Association nor its agents or employees shall be liable, and are expressly relieved from any liability for trespass or other tort in connection with the performance of the exterior maintenance and other work authorized in this Article. The cost of such exterior maintenance and other work shall be the personal obligation of the Owner of the Lot on which it was performed and shall become a part of the assessment payable by said Owner and secured by the liens herein retained.

ARTICLE VIII

Use Restrictions

Section 1. Residential Use: Each and every Lot in the Subdivision is hereby restricted to residential dwellings for single-family residential use only. As used herein, the term "residential use" shall be held and construed to exclude hospitals, clinics, apartment houses, boarding houses, hotels, places of amusement or entertainment and commercial, business and professional uses whether from homes, residences or otherwise, and all such uses of said property are hereby expressly prohibited.

Section 2. Common Area: Any property owned by the Association shall not be used for any commercial purposes; however, this

provision shall not preclude the Association from charging reasonable fees for the use of the recreational facilities which are part of the Common Area.

Section 3. Business Activity: No business activities of any kind whatsoever shall be conducted in any portion of the Subdivision, provided, however, the foregoing covenant shall not apply to the business activities of the Declarant, its agents and assigns during the construction and sale period, or of the Association, its successors and assigns in furtherance of its powers and purposes as herein set forth. Each builder on Lots in the Subdivision shall be allowed to use one two-car garage structure as an office; provided, however, that such structure must be converted back to a garage prior to the sale of the home on the Lot affected to a purchaser.

Section 4. Exemption for Sale of Lots: Notwithstanding any provisions herein contained to the contrary, it shall be permissible for Declarant or the builder of any residence to maintain, during the period of construction and sale of Lots within the Subdivision, upon any portion of a Lot, such facilities as in the sole opinion of the Declarant may be reasonably required, convenient or incidental to the construction and sale of improved Lots, including, without limitation, a business office, storage area, construction yards, model units and a sales office.

Section 5. Signs: No advertising signs (except not more than one nine (9) square foot "For Rent" or "For Sale" sign per Lot), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on any portion of the Subdivision, nor shall any portion of the Subdivision be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner or residents of any Lot. Declarant and the Association, however, shall have the right to erect identifying signs at each

entrance to the Subdivision. The Board of Directors and the Association shall have the right to enter in and upon any Lot for the purpose of removing any sign being maintained thereon which has not been approved by it. In no event shall the Association or its Board of Directors be liable to any person or persons for any damages of whatever nature for removing such signs in a reasonable manner.

Section 6. Type of Living Unit: No building shall be erected, altered, placed or permitted to remain on any Lot other than detached single family dwellings primarily of masonry exterior and not more than two (2) stories in height, together with a private garage or carport for not more than three (3) cars, and with a roof of either #1 perfection 18" wood shingles, tile, or composition of the Timberline type or an equal approved by the Committee. There shall be no exposed concrete blockwalls. Garage doors shall all have electric operators or other devices approved by the Committee and shall stay closed when not being used for ingress or egress.

Section 7. Location of Living Unit on Lot: Except as may be authorized in writing by the Committee, no building or structure shall be located nearer to any front, side or rear Lot line than as permitted by the utility easements and the setback lines shown on the recorded plat of the Subdivision, and with regard to Lots 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 of Block 2, no building or structure shall be located nearer than ten (10) feet to the front lot line. To provide for uniformity and proper utilization of the building area within the Lots, Living Units or appurtenant structures on a Lot shall not be less than three (3) feet from the front, side, or rear property line for that Lot, such line hereinafter referred to as the "three (3) foot setback line". Overhang of the walls and roofs of such buildings or structures shall be permitted beyond such three (3) foot

setback line so long as such overhang does not extend out more than eighteen (18) inches from the slab or foundation and such roofs shall be constructed in such a manner as not to drain onto the adjacent Lot.

Section 8. Dimensions of Living Units: No residential structure shall be erected, altered, placed or permitted to remain on any Lot unless its living area has a minimum of 2,000 square feet of air-conditioned usable floor space exclusive of porches and garage, with 1,200 total square feet on the ground in the case of a two-story structure; unless otherwise approved by the Committee.

Section 9. Sidewalks: The Owner may construct in the adjacent street right(s)-of-way a concrete sidewalk parallel to the street curb provided said Owner (i) obtains the prior written approval of the Committee and (ii) constructs said sidewalk in accordance with specifications therefor to be published by the Committee, Harris County and any other state, federal or local agency having jurisdiction. The sidewalk shall extend along the entire common boundary between the Lot and the adjacent street right(s)-of-way.

Section 10. Driveways: Unless the Committee agrees otherwise, each Lot shall have driveway access to the street on which the Living Unit constructed thereon faces and shall not have driveway access to a street on which it may side. Subject to the foregoing limitation, the Owner of each Lot shall construct and maintain at his expense a driveway from his garage to an abutting street, including the portion of the street right-of-way. The garage shall not face the street on which the Living Unit fronts unless the front of the garage is at least sixty (60) feet from the front lot line; provided, however, that on corner lots the garage shall face the street on which the Living Unit fronts and the front of the garage shall be at least sixty (60) feet from the front lot line.

Section 11. Mailboxes and Identifying Numbers: Mailboxes, house numbers and similar matter used in the Subdivision must be harmonious with the overall character and aesthetic appeal of the community and the decision of the Committee that any such matter is not harmonious shall be final.

Section 12. Temporary Structures: All buildings or structures erected upon Lots in the Subdivision shall be of new construction and no buildings or structures shall be moved from other locations onto said Lots. No structures of a temporary character, including tents, shacks, barns, or other outbuildings shall be placed on any Lot located within the Subdivision except for such temporary buildings utilized by the Declarant or the builder of any residence during the period of construction. Trailers, mobile homes, motor homes, or motor vehicles shall not be used on any Lot at any time as a residence, either temporarily or permanently.

Section 13. Metal Buildings and Fences: No metal buildings of any type and no chain link or wire fences of any type shall be placed or constructed upon any Lot.

Section 14. Animals and Livestock: The raising or keeping of hogs, horses, poultry, fowls, or other livestock on any Lot in the Subdivision is strictly prohibited. Consistent with its use as a residence, dogs, cats and other household pets may be kept on a Lot, provided they are not kept, bred or maintained for any commercial purposes.

Section 15. Clothesline: No outside clothesline shall be constructed or maintained on any Lot within sight of the Common Area or any street or adjacent Lot.

Section 16. Disposal of Trash: No portion of the Subdivision shall be used or maintained as a dumping ground for rubbish, trash, garbage or other wastes. All rubbish, trash, garbage or other waste shall be kept in sanitary containers and out of sight of any Common Area and any street or adjacent Lot, except on days designated by the Association or the entity providing garbage or

trash pick-up service for pick-up of garbage or trash. No incinerator may be maintained on any portion of the Subdivision.

Section 17. Exterior Antennas: Without the prior written approval and authorization of the Committee, no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of the improvements and structures to be located in the Subdivision, other than an aerial for a master antenna system, should any such master system or systems be utilized and require an exterior antenna.

Section 18. Storage of Vehicles: No portion of the streets or any Common Area shall, without the express written permission of the Association, be used for the storage of boats, trailers, campers, unused or inoperable automobiles, or any items which the Association deems unsightly or inappropriate. Boats, trailers, campers, unused or inoperable automobiles, and other machinery consistent with the use of the premises as a residence may be kept on Lots, provided they are kept or stored within a garage or such other place as may be completely out of view from any Common Area or any street or adjacent Lot.

Section 19. Discrimination: No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against an Owner or Owners in favor of the other Owners.

Section 20. Nuisances: No noxious or offensive trade or activity shall be carried on upon any portion of the Subdivision, nor shall anything be done thereon which may become an annoyance or nuisance to the residents of the Subdivision.

Section 21. Sale of Liquor: No spiritous, vinous, or malt liquors or medicated bitters capable of producing intoxication shall ever be sold or offered for sale on any Lot in the Subdivision, nor shall any portion of the Subdivision be used for

vicious, illegal or immoral purposes, or for any purpose in violation of the laws of the State of Texas, or the United States, or of the police, health, sanitary, building or fire codes, regulations or instructions relating to or affecting the use, occupancy or possession of any portion of the Subdivision.

Section 22. Mineral Production. No oil drilling, oil development operations or oil refining, quarrying or mining operations of any kind shall be permitted upon any portion of the Subdivision, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any portion of the Subdivision. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any portion of the Subdivision.

Section 23. Maintenance: All residences and other buildings located within the Subdivision must be kept in good repair and must be painted when necessary to preserve their attractiveness. Grass, vegetation and weeds on each Lot shall be cut as often as may be necessary to maintain the same in a neat and attractive condition. All damaged, diseased beyond recovery or dead trees shall be cut and removed from any Lot at the expense of Owner. No fence, wall, tree, hedge or planting shall be maintained in the Subdivision in such a manner as to obstruct sight lines for vehicular traffic, from the standpoint of safety.

Section 24. Building Materials: No Lot shall be used for storage of any material except that required for landscaping or construction which materials shall not be placed or stored upon any Lot until the Owner is ready to commence construction of improvements on the Lot, at which time such materials shall be placed within the property lines of the Lot upon which the improvements are to be constructed, and shall not be placed in the street.

ARTICLE IX

Easements

Section 1. General: Declarant shall have the right for a period of ten (10) years after the date this Declaration of Covenants, Conditions and Restrictions is filed of record in the Official Public Records of Real Property of Harris County, Texas, to grant, convey, dedicate or reserve easements over, on or under any part of the land in the Subdivision for streets and/or for electric light and power, telephone, natural gas, water, sanitary sewer, storm sewer, cable television, and other utility lines and facilities by separate recordable document regardless of whether at such time Declarant has title to the land within the easement(s). Thereafter, the Association shall have the power and authority to grant such an easement upon the vote of the Members holding a majority of all membership votes entitled to be cast in each membership class that is entitled to vote at the time the action is taken. An easement is also specifically granted to the United States Post Office, its agents and employees to enter upon any portion of the Subdivision in performance of mail delivery or any other United States Post Office services. An easement is also granted to all police, fire protection, ambulance and similar persons to enter upon any portion of the Subdivision in performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, and employees to enter in or cross over any Common Area and/or any Lot to perform the duties of maintenance and repair as provided for herein. The easements provided for in this Article shall in no way affect any other recorded easements covering any portion of the Subdivision.

Section 2. Underground Electric Service: Underground single phase electric service may be available to all dwellings or structures located in the Subdivision. In such event, the metering equipment shall be located either on the exterior surfaces or

walls of dwellings or structures or at points to be designated by the utility company. The utility company shall have a two-foot wide underground easement along and centered on the underground electrical power service conductor installed and running from the utility company's easement shown on the recorded plat of the Subdivision to the designated point of service on the dwelling or structure. This easement shall be for the maintenance of its conductors and metering equipment. For so long as such underground service is maintained, the electrical service to each dwelling and structure located in the Subdivision shall be uniform and exclusively of the type known as single phase, 120/240 volt, 3 wire, 60 cycle alternating current. This two-foot easement for underground electrical service may be crossed by driveways, walkways, and patio areas, provided the Declarant or builder makes prior arrangements with the utility company furnishing such service. However, this easement shall be kept clear of all buildings. Neither the Declarant nor the utility company using this easement shall be liable for any damage done by either of them or their assigns, their agents, employees or servants to shrubbery, trees, flowers or other improvements located on the land covered by such easement.

ARTICLE X

General Provisions

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

Section 2. Duration and Amendment: The covenants, conditions, restrictions, reservations, liens and charges set forth in this Declaration of Covenants, Conditions and Restrictions shall run with the land and shall be binding upon and inure to the benefit of, and be a burden on, the Association, all Owners, their respective legal representatives, heirs, successors and assigns for a term of thirty (30) years from the date this Declaration of Covenants, Conditions and Restrictions is recorded in the Official Public Records of Real Property of Harris County, Texas, after which time said covenants, conditions, restrictions, reservations, liens and charges shall be automatically extended and renewed for successive periods of ten (10) years each, unless prior to the commencement of any such renewal term an instrument signed and acknowledged by the then Owners of not less than two-thirds (2/3) of the total number of Lots in the Subdivision is filed for record with the County Clerk of Harris County, Texas, altering, rescinding or modifying said covenants and restrictions in whole or in part. Notwithstanding anything to the contrary herein contained, it is expressly understood and agreed that the Owners of two-thirds (2/3) of the total number of Lots in the Subdivision shall always have the power and authority to amend this Declaration of Covenants, Conditions and Restrictions and such Amendment shall become effective on the date an instrument, signed and acknowledged by the then Owners of not less than two-thirds (2/3) of the total number of Lots in the Subdivision is filed for record in Harris County, Texas, so amending said Declaration of Covenants, Conditions and Restrictions.

Section 3. Canvassing: Where this Declaration of Covenants, Conditions and Restrictions requires that an instrument be executed by a certain percentage or number of the Members or Owners such instrument may be circulated among the Members or Owners by a door-to-door canvass and need not be presented at any meeting of

the Members or otherwise, provided the Board of Directors of the Association is notified in writing by certified mail, return receipt requested of the fact that an action is contemplated by a canvassing of the Members or Owners.

Section 4. Severability: If any provision of this Declaration of Covenants, Conditions and Restrictions or the application thereof to any person or circumstance shall, for any reason or to any extent, be invalid or unenforceable, neither the remainder of this Declaration of Covenants, Conditions and Restrictions nor the application of such provision to other persons or circumstances shall be affected thereby, but shall be enforced to the fullest extent permitted by law.

Section 5. Gender and Number: Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

Section 6. Headings: The paragraph entitlements hereof are inserted for convenience of reference only and shall in no way alter, modify or define, or be used in construing, the text of such paragraphs.

IN WITNESS WHEREOF, this Declaration is executed as of the 26 day of September, 1978.

SUPPOLK, INC.

By: [Signature]
Its President

SUPPOLK
ATTEST
[Signature]

107-94-2429

First Continental Mortgage Co., a lienholder, joins in the execution hereof for the purpose of subordinating all of the liens held by it against the Subdivision unto these presents, and does hereby consent and agree to the imposition of the foregoing reservations, restrictions, covenants and conditions; and First Continental Mortgage Co. hereby agrees that a foreclosure of its liens shall not affect such reservations, restrictions and covenants.

FIRST CONTINENTAL MORTGAGE CO.

BY: Kenneth C. Thye
Name: Kenneth C. Thye
Title: Vice President

ATTEST:

Ant. Beckman
Name: Ant. Beckman
Title: Assistant Secretary

THE STATE OF TEXAS

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COUNTY OF HARRIS

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 26 day of September, 1978.

My Commission Expires:

5/3/79

Marie S. Powers
Notary Public in and for
Harris County, T E X A S

MARIE S. POWERS

PRINTED NAME OF NOTARY PUBLIC

107-94-2430

THE STATE OF TEXAS

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COUNTY OF HARRIS

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BEFORE ME, the undersigned authority, on this day personally appeared Kenneth P. Shaw, known to me to be the person whose name is subscribed to the foregoing instrument as Vice President of First Continental Mortgage Co., and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated and as the act and deed of First Continental Mortgage Co.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 26th day of September, 1978.

My Commission Expires:

7-20-80

Donna Schmitt
Notary Public in and for
Harris County, TEXAS

My Commission Expires 7-20-80

PRINTED NAME OF NOTARY PUBLIC