

49⁰⁰
68803

COMPARED

DEED
VOL 807 PAGE 56

SUPPLEMENTAL
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR BRIARGATE, SECTION TEN
(EXCEPT UNRESTRICTED RESERVE "A")
(A RESIDENTIAL SUBDIVISION)

THE STATE OF TEXAS §
§
COUNTY OF FORT BEND §

THIS SUPPLEMENTAL DECLARATION, made on the date hereinafter set forth by KEVALAND TEXAS CORPORATION, a Texas corporation doing business as BLUE RIDGE ASSOCIATES, having its principal place of business in Houston, Harris County, Texas, and being the successor corporation to Blue Ridge Associates, a joint venture, hereinafter referred to as "Declarant."

W I T N E S S E T H:

WHEREAS, Declarant has heretofore executed that certain Declaration of Covenants, Conditions and Restrictions (hereinafter referred to as the "Declaration") filed for record in the Office of the County Clerk of Fort Bend County, Texas, and recorded in Volume 521, Page 757 of the Deed Records of Fort Bend County, Texas, imposing on BRIARGATE, SECTION ONE, a subdivision in Fort Bend County, Texas, according to the plat thereof recorded in Volume 6, Page 15 of the Map Records of Fort Bend County, Texas, all those certain covenants, conditions, restrictions, easements, charges, and liens therein set forth for the benefit of said property, and each owner thereof; and

WHEREAS, the Declaration contemplates that the authority and jurisdiction of the Association may be extended to include additional properties provided that the following requirements have been satisfied, and contemplates and evidences the granting to Declarant, its successors and assigns, the right to bring within the scheme of the Declaration, additional properties upon the following terms:

- (a) so long as there is a Class B Member, the Federal Housing Administration or the Veterans' Administration (the "FHA/VA") has approved an overall general plan of development covering all areas to be ultimately included within the jurisdiction of the Association, and has approved, as evidenced by issuance of an ASP-9 with respect to such properties, the detailed plans for development of the specific properties then sought to be included within the jurisdiction of the Association; and
- (b) any additional properties, in order to be entitled to the benefit of the Maintenance Fund created by the Declaration and all Supplemental Declarations, must be impressed with and subjected to an annual maintenance charge and assessment on a uniform, per lot basis, substantially equivalent to the maintenance charge and assessment imposed by the Declaration; and
- (c) the Board of Trustees of the Association, in its sole discretion, shall have approved the annexation of such additional properties; and

DEED

NO. 807 PAGE 57

WHEREAS, Declarant has previously brought within the scheme of the Declaration, additional sections of The Briargate Subdivision, as follows:

a. Briargate, Section Two, a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded in Volume 9, Page 3 of the Map Records of Fort Bend County, Texas, by "Declaration of Covenants, Conditions and Restrictions" recorded in Volume 552, Page 56 of the Deed Records of Fort Bend County, Texas;

b. Briargate, Section Three, a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded in Volume 9, Page 7 of the Map Records of Fort Bend County, Texas, by "Declaration of Covenants, Conditions and Restrictions" recorded in Volume 559, Page 867 of the Deed Records of Fort Bend County, Texas;

c. Briargate, Section Four, a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded in Volume 12, Page 14 of the Map Records of Fort Bend County, Texas, by "Declaration of Covenants, Conditions and Restrictions" recorded in Volume 600, Page 259 of the Deed Records of Fort Bend County, Texas;

d. Briargate, Section Five, a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded in Volume 16, Page 7 of the Map Records of Fort Bend County, Texas, by "Declaration of Covenants, Conditions and Restrictions" recorded in Volume 660, Page 276 of the Deed Records of Fort Bend County, Texas;

e. Briargate, Section Six, a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded in Volume 18, Page 6 of the Map Records of Fort Bend County, Texas, by "Declaration of Covenants, Conditions and Restrictions" recorded in Volume 693, Page 184 of the Deed Records of Fort Bend County, Texas; and

f. Briargate, Section Seven, a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded in Volume 21, Page 6 of the Map Records of Fort Bend County, Texas, by "Declaration of Covenants, Conditions and Restrictions" recorded in Volume 736, Page 263 of the Deed Records of Fort Bend County, Texas;

(save and except those Lots and Reserves specifically excepted in each of the same "Declarations of Covenants, Conditions and Restrictions," as applicable; and

WHEREAS, by that certain instrument entitled "Ratification Agreement, Briargate Subdivision" recorded in Volume 807, Page 1 of the Deed Records of Fort Bend County, the Declarant and the Board of Trustees of the Briargate Community Improvement Association did ratify the annexation of the above listed Sections of The Briargate Subdivision into the jurisdiction of the Association; and

WHEREAS, pursuant to the Declaration, Declarant has heretofore brought within the scheme of the Declaration other Sections of Briargate Subdivision, as reflected by Supplemental Declarations of Covenants, Conditions and Restrictions, recorded in the Deed Records of Fort Bend County, Texas; and

WHEREAS, Declarant is the owner of the real property described in Article I of this Supplemental Declaration, and desires to provide for the preservation of the values and amenities in such property, and, to this end, desires to bring such

DEED

Vol. 807 Page 58

property within the scheme of the Declaration and add it to the properties now comprising the Subdivision, by subjecting such property to the covenants, conditions, restrictions, easements, charges, and liens hereinafter set forth, each and all of which is and are for the benefit of such property and each owner in the Subdivision; and

WHEREAS, Declarant shall be deemed to have obtained the required approval of the FHA/VA of the addition of the real property described in Article I of this Supplemental Declaration to the properties now comprising the Subdivision, in accordance with the requirements as set forth hereinabove as contemplated by the Declaration, and as subjected to the covenants, conditions, restrictions, easements, charges, and liens herein set forth upon the issuance by the FHA of its ASP-9 covering the properties annexed hereby; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in the Subdivision, to create an agency to which has been and will be delegated and assigned the powers of maintaining, administering, and enforcing the assessments and charges created in the Declaration and all Supplemental Declarations; and

WHEREAS, BRIARGATE COMMUNITY IMPROVEMENT ASSOCIATION has been incorporated under the laws of the State of Texas, as a non-profit corporation, for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, Declarant hereby adopts, establishes and imposes upon the real property described in Article I the following reservations, easements, restrictions, covenants and conditions and declares same applicable thereto, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the land which reservations, easements, covenants, restrictions and conditions shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest therein, or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I

Definitions

Section 1. "Association" shall mean and refer to BRIARGATE COMMUNITY IMPROVEMENT ASSOCIATION, its successors and assigns, provided for in Article V hereof.

Section 2. "Properties" shall mean and refer to the real property constituting BRIARGATE, SECTION TEN, being 16.248 acres out of the John Lafayette Survey, Abstract No. 280, Fort Bend County, Texas, according to the Subdivision Plat, SAVE AND EXCEPT Unrestricted Reserve "C" as shown on the Subdivision Plat.

Section 3. "the Subdivision" shall mean and refer to Briargate, Sections One through Seven; Briargate, Section Nine; Briargate, Section Eight; Briargate, Section Ten which is brought within the scheme of the Declaration by this Supplemental Declaration; all subsequent sections of The Briargate Subdivision brought within the scheme of the Declaration; and any additional properties which may hereafter be brought within the scheme of the Declaration pursuant to the provisions set forth herein.

Section 4. "Lot" and/or "Lots" shall mean and refer to each of the lots shown upon the Subdivision Plat. References herein to "the Lots (each Lot) in the Subdivision" shall mean and refer to Lots as defined respectively in the Declaration and all Supplemental Declarations.

DEED
VOL 807 PAGE 59

Section 5. "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 Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation and those having only an interest in the mineral estate. References herein to "the Owners (any Owner) in the Subdivision" shall mean and refer to Owner(s) as defined respectively in the Declaration and all Supplemental Declarations.

Section 6. "Subdivision Plat" shall mean and refer to the Development Plat of Briargate, Section Ten, recorded in Volume 22, Page 55, of the Map Records of Fort Bend County, Texas, and any subsequently recorded replat thereof, said Development Plat being a Plat of Unrestricted Reserve "A" of Briargate, Section Three, according to the plat thereof recorded in Volume 9, Page 3 of the Map Records of Fort Bend County, Texas.

Section 7. "Architectural Control Committee" shall mean and refer to Briargate Architectural Control Committee provided for in Article IV hereof.

Section 8. "Declarant" shall mean and refer to Blue Ridge Associates, its successors and assigns, if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 9. "Common Properties" shall mean and refer to any areas of land within the Subdivision, as shown on the respective Subdivision Plats, except the Lots and the streets shown thereon, and Unrestricted Reserve "A" shown thereon, together with such other property as the Association may, at any time, or from time to time, acquire by purchase or otherwise, subject, however, to the easements, limitations, restrictions, dedications, and reservations applicable thereto by virtue hereof and/or by virtue of the Subdivision Plat, and/or by virtue of prior grants or dedications by Declarant or Declarant's predecessors in title. References herein to "the Common Properties (any Common Property) in the Subdivision" shall mean and refer to the Common Properties as defined respectively in this Supplemental Declaration and all Supplemental Declarations.

Section 10. "Common Facilities" shall mean and refer to any provided improvements upon or within the Common Properties, except those as may be expressly excluded herein. By way of illustration, Common Facilities may include, but not necessarily be limited to, the following: structures for storage or protection of equipment, fountains, statuary, sidewalks, common driveways, landscaping, and other similar and appurtenant improvements for the general welfare and well being of the Owners. References herein to "the Common Facilities (any Common Facility) in the Subdivision" shall mean and refer to Common Facilities as defined respectively in this Supplemental Declaration and all Supplemental Declarations.

Section 11. "Supplemental Declaration" shall mean and refer to the Declarations of Covenants, Conditions and Restrictions for Briargate, Sections Two through Seven and any Supplemental Declaration of Covenants, Conditions and Restrictions bringing additional property within the scheme of the Declaration under the authority provided herein and as contemplated in the Declaration. References herein (whether specific or general) to provisions set forth in "any (all) Supplemental Declaration(s)" shall be deemed to relate to the respective properties covered by such Supplemental Declarations.

DEED

ARTICLE II

VOL 807 PAGE 60

Reservations, Exceptions and Dedications

Section 1. Existing Easements. The Subdivision Plat dedicates for use as such, subject to the limitations set forth therein, the streets and easements shown thereon, and such Subdivision Plat further establishes certain restrictions applicable to the Properties, including, without limitation, certain minimum setback lines, and all dedications, limitations, restrictions and reservations shown on the Subdivision Plat are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or other conveyance executed or to be executed by or on behalf of Declarant, conveying said property or any part thereof, whether specifically referred to therein or not.

Section 2. Purposes. Declarant reserves the easements and rights-of-way as shown on the Subdivision Plat for the purpose of constructing, maintaining and repairing a system or systems of electric lighting, electric power, telegraph and telephone line or lines, gas, sewers, or any other utility Declarant sees fit to install in, across and/or under the Properties. There is hereby created an easement upon, across, over, and under all of the Properties for ingress and egress in connection with installing, replacing, repairing, and maintaining all utilities, including, but not limited to, water, sewer, telephones, electricity, gas, and appurtenances thereto. By virtue of this easement, it shall be expressly permissible for the utility companies and other entities supplying service to install and maintain pipes, wires, conduits, service lines, or other utility facilities or appurtenances thereto, on, above, across, and under the Properties within the public utility easements from time to time existing and from service lines situated within such easements to the point of service on or in any structure. Notwithstanding anything contained in this Section, no sewer, electrical lines, water lines, or other utilities or appurtenances thereto may be installed or relocated on the Properties until approved by Declarant or the Association's Board of Trustees. The utility companies furnishing service shall have the right to remove all trees situated within the utility easements shown on the Subdivision Plat and to trim overhanging trees and shrubs located on portions of the Properties abutting such easements.

Section 3. Changes and Additions. Declarant reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing the improvements, but such changes and additions must be approved by the FHA/VA.

Section 4. Surface Areas. The surface of easement areas for the underground utility services may be used for planting of shrubbery, trees, lawns or flowers. However, neither the Declarant nor any supplier of any utility or service using any easement area shall be liable to any Owner or the Association for any damage done by them or either of them, or by their respective agents, employees, servants, or assigns, to any of the aforesaid vegetation as a result of any activity relating to the construction, maintenance, operation, or repair of any facility in any such easement area. Further, neither the Declarant nor any supplier of any utility or service using any easement area shall be liable to any Owner or to the Association for any damage done by them, or either of them, or their respective agents, employees, servants or assigns, to any sidewalks, driveways, fences, or other object occupying any such easement or any portion thereof, as a result of any activity relating to the construction, maintenance or repair of any facility in any such easement area.

DEED

VOL 807 PAGE 61

Section 5. Title to Easements and Appurtenances Not Conveyed. It is expressly agreed and understood that the title conveyed by Declarant to any Lot or parcel of land within the Properties by contract, deed or other conveyance shall be subject to (a) any easement affecting same for roadways or drainage, water, gas, sewer, storm sewer, electric light, electric power, telegraph, telephone or other utility purposes and shall convey no interest in any pipes, lines, poles or conduits, or in any utility facility or appurtenances thereto, constructed by or under Declarant or any easement owner, or their agents through, along or upon the premises affected thereby, or any part thereof, to serve said Lot or parcel of land or any other portion of the Properties and (b) the right of Declarant, its successors and assigns, to maintain, repair, sell or lease such appurtenances to any municipality, or other governmental agency or to any public service corporation or to any other party (and such right is hereby expressly reserved).

Section 6. Emergency and Service Vehicles. An easement is hereby granted to all police, fire protection, ambulance, and other emergency vehicles, and to garbage and trash collection vehicles, postal service vehicles and employees, and other service vehicles to enter upon the Properties in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and management personnel to enter the Properties to render any service.

ARTICLE III

Use and Building Restrictions

Section 1. Land Use and Building Type. All Lots shall be known, described and used as Lots for residential purposes only (hereinafter sometimes referred to as "residential Lots"), and no structure shall be erected, altered, placed, or permitted to remain on any residential Lot other than one single-family dwelling not to exceed two (2) stories in height, a detached or an attached garage not to exceed one (1) story for not less than two (2) or more than three (3) cars and quarters for bona fide domestic employees; provided that the Architectural Control Committee may, in its discretion, permit a garage for less than two (2) or more than three (3) cars, such permission to be granted in writing as hereinafter provided. No carport shall be permitted on any Lot. No garage shall ever be changed, altered, reconstructed or otherwise converted for any purpose inconsistent with the garaging of automobiles. As used herein, the term "residential purposes" shall be construed to prohibit the use of the Lots for duplex houses, garage apartments, or apartment houses; and no Lot shall be used for business, educational, religious or professional purposes of any kind, nor for any commercial or manufacturing purpose. No building of any kind or character shall ever be moved onto any Lot, it being the intention that only new construction shall be placed and erected thereon.

All exterior construction of the primary residential structure, garage, porches and any other appurtenances or appendages of every kind and character on any Lot and all interior construction (including but not limited to, all electrical outlets in place and functional, all plumbing fixtures installed and operational, all cabinet work completed, all interior walls, ceilings, and doors completed and covered by paint, wallpaper, paneling, or the like, and all floors covered by wood, carpet, tile or other similar floor covering) shall be completed not later than one (1) year following the commencement of construction. For the purposes hereof, the term "commencement of construction" shall be deemed to mean the date on which the foundation forms are set.

Section 2. Architectural Control. No building or other structure shall be erected, placed or altered on any Lot until the

DEED
VOL. 807 PAGE 62

construction plans and specifications therefor and a plot plan showing the location of the structure thereon have been approved in writing by the Architectural Control Committee as to harmony with existing structures, with respect to exterior design and color with existing structures, as to location with respect to topography and finished grade elevation, and as to compliance with minimum construction standards, all as more fully provided for in Article IV hereof.

Section 3. Dwelling Size. The ground floor of the main residential structure, exclusive of open porches and garages, shall not be less than 1,200 square feet for a one-story dwelling, nor shall the ground floor area plus the upper floor area of the main residential structure of a one and one-half (1-1/2) story, or a two (2) story dwelling be less than 1,200 square feet.

Section 4. Type of Construction, Materials, and Landscape.

(a) No residential structure shall have less than fifty-one percent (51%) masonry construction or its equivalent on its exterior wall area, except that detached garages may have wood siding on the exterior wall area of a type and design approved by the Architectural Control Committee.

(b) No external roofing material other than wood or 235# minimum composition shingles of a wood tone color shall be constructed or used on any building in any part of the Properties unless the Architectural Control Committee shall, in its discretion, permit the use of other roofing materials, such permission to be granted in writing as hereinafter provided.

(c) A concrete sidewalk four (4) feet wide shall be constructed parallel to the curb two (2) feet from the property line along the entire fronts of all Lots. In addition thereto, four (4) foot wide sidewalks shall be constructed parallel to the curb two (2) feet from the property line along the entire side of all corner Lots. The plans for each residential building on each Lot shall include plans and specifications for said sidewalks, and said sidewalks shall be constructed and completed before the main residence is occupied.

(d) No window or wall type air conditioners shall be permitted to be used, erected, placed or maintained on or in any building in any part of the Properties; provided, however, that the Architectural Control Committee may in its discretion, permit window or wall type air conditioners to be installed in a garage if such unit, when installed, shall not be visible from a street, such permission to be granted in writing as hereinafter provided.

(e) Each kitchen in each dwelling and living quarters situated on any Lot shall be equipped with a garbage disposal unit, which garbage disposal unit shall at all times be kept in an operational condition.

(f) No electronic antenna or device of any kind other than one antenna for receiving television signals, FM signals and/or citizen's band signals shall be erected, constructed, placed or permitted to remain on any Lot, or residence or other building situated thereon. The permitted antenna may be attached to the residential structure, and shall, in any event, be securely anchored by appropriate means; however, the antenna's location shall be restricted to the rear of the residential structure (i.e. to the rear of the center gable or roof ridge line of such structure) so as to be hidden from sight when viewed from the street on which such Lot fronts. No such permitted antenna shall extend beyond the highest point of the residential structure on said Lot.

(g) No fence or wall shall be erected, placed, maintained or altered on any Lot:

DEED

VOL 807 PAGE 63

- (i) nearer to any street than the minimum building setback lines as shown on the Subdivision Plat; nor
- (ii) nearer to the front Lot line than the plane of the front exterior wall of the residential structure on the Lot.

A solid wood or masonry fence at least six (6) feet in height, shall be constructed and maintained in a good state of repair on and along the rear lot lines of Lots 17 through 25, in Block 2 which property lines are adjacent to and common with the adjoining Unrestricted Reserve "C" as shown on the Subdivision Plat. All other fences must be constructed of ornamental metal, wood or masonry. Chain link fences shall be permitted only with prior written approval of the Architectural Control Committee. No fence shall exceed eight (8) feet in height, and all fences along side and rear Lot lines shall be not less than six (6) feet in height. The Architectural Control Committee may, in its discretion, permit a fence to be located nearer to the front Lot line than the plane of the front exterior wall of the residential structure (but not in front of the building setback line); or to exceed eight (8) feet in height, such permission to be granted in writing, as hereinafter provided.

Ownership of any wall, fence or hedge erected as a protective screening on a Lot by Declarant shall pass with title to such Lot and it shall be the Owner's responsibility to maintain said protective screening thereafter. In the event of default on the part of Owner or occupant of any Lot in maintaining said protective screening and such failure continuing after ten (10) days written notice thereof, Declarant or its successors or assigns may, at its option, without liability to the Owner or occupant in trespass or otherwise, enter upon said Lot and cause said protective screening to be repaired or maintained or to do any other thing necessary to secure compliance with this Supplemental Declaration, so as to place said protective screening in a satisfactory condition, and may charge the Owner or occupant of such Lot for the cost of such work by submitting to such Owner or occupant a statement setting forth the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupancy of such Lot, to pay such statement immediately upon receipt thereof. The amount of such charge, together with interest thereon at the rate of six percent (6%) per annum and reasonable costs of collection, shall be a charge and continuing lien upon such Lot, as well as the continuing personal obligation of the Owner of such Lot at the time such charge is incurred. The lien securing such charge shall be second, subordinate and inferior to all liens, present and future, given, granted and created by or at the instance or request of the Owner of any such Lot to secure the payment of monies advanced on account of the purchase price and/or improvement of any such Lot.

Section 5. Building Location. No structure shall be located on any Lot between the building setback lines shown on the Subdivision Plat and the street. No building shall be located nearer than five (5) feet to any interior Lot line, except that a garage or other permitted accessory building located sixty-five (65) feet or more from the front Lot line may be located within three (3) feet of an interior Lot line. No main residence building, nor any part thereof, shall be located on any Lot nearer than fifteen (15) feet to the rear Lot line. For the purposes of this Section, eaves, steps and open porches shall not be considered as a part of the building; provided, however, that the foregoing shall not be construed to permit any portion of a structure on any Lot to encroach upon another Lot or to extend beyond the building setback line. For the purposes of this Supplemental Declaration, the front Lot line of each Lot shall coincide with and be the lot line having the shortest dimension abutting a street. Unless otherwise

DEED

VOL 807 PAGE 04

approved in writing by the Architectural Control Committee, each main residence building will face the front of the Lot, and each detached garage will be located at least sixty-five (65) feet from the front Lot line of the Lot on which it is situated and will be provided with driveway access from the front of the Lot; provided that such access may be from the front or side of corner Lots unless such side access would be from a major thoroughfare (defined as being 100 feet or more in width), in which event access must be from the front of the Lot (provided that the Architectural Control Committee, in its discretion, may permit side access to a corner Lot from a major thoroughfare, such permission to be granted in writing as hereinafter provided). Lots adjacent to Fondren Road, East Frontage Road and Ruppstock Road are hereby expressly denied driveway access to said thoroughfares.

Section 6. Minimum Lot Area. No Lot shall be resubdivided into other or additional Lots, nor shall any building be erected or placed on any Lot, having area of less than 6,000 square feet; provided, however, that nothing contained herein shall be construed to prohibit the resubdivision of any Lot or Lots within the Properties if such resubdivision results in each resubdivided Lot containing not less than the minimum Lot aforesaid; it being the intention of this restriction that no Lot within the Properties contain less than the aforesaid minimum area.

Section 7. Annoyance or Nuisances. (a) No noxious or offensive activity shall be carried on upon any Lot, or any other part of the Properties, nor shall anything be done thereon which is or may become an annoyance to the neighborhood. (b) No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot or any Common Property, except that dogs, cats or other household pets (not to exceed three (3) adult animals) may be kept provided that they are not kept, bred or maintained for any commercial purpose. (c) No spirituous, vinous, malt liquor or medicated bitters capable of producing intoxication shall ever be sold or offered for sale on any Lot or any other part of the Properties, nor shall any Lot or any other part of the Properties be used for illegal or immoral purposes. (d) No truck, bus, boat or trailer shall be left parked in or on any street or in any driveway or other portion of any Lot exposed to public view (except for construction or repair equipment only while a house or houses are being built or repaired in the immediate vicinity) or on any other part of the Properties. (e) No septic tank or private water well shall be permitted on any Lot.

Section 8. Temporary Structures. No structure of a temporary character, whether trailer, basement, mobile or motor home, tent or otherwise shall be maintained or used on any Lot at any time as a residence, or for any other purpose, either temporarily or permanently; provided, however, that Declarant reserves the exclusive right to erect, place and maintain such facilities in or upon any portions of the Properties as in its sole discretion may be necessary or convenient while selling Lots, selling or constructing residences and constructing other improvements upon the Properties. Such facilities may include, but not necessarily be limited to sales and construction offices, storage areas, model units, signs and portable toilet facilities. No truck, trailer, boat, automobile, motor home or other vehicle shall be stored, parked, or kept on any Lot or in any street unless such vehicle is in day-to-day use off the premises and such parking is only temporary, from day-to-day; provided, however, that nothing herein contained shall be construed to prohibit the storage of an unused vehicle in an enclosed garage on any Lot.

Section 9. Signs and Billboards. No signs, billboards, posters or advertising devices of any character shall be erected, permitted or maintained on any Lot except (i) one sign of not more than ten (10) square feet advertising the particular Lot on which the sign is situated for sale or rent and (ii) one sign of not

DEED

VOL. 807 PAGE 65

more than five (5) square feet to identify the particular Lot as may be required by the FHA/VA during the period of actual construction of a single-family residential structure thereon. The right is reserved by Declarant to construct and maintain such signs, billboards or advertising devices as is customary in connection with the general sale of property in the Subdivision. In no event shall any sign, billboard, poster or advertising device of any character, other than as specifically prescribed in the first sentence of this Section 9., be erected, permitted or maintained on any Lot without the express prior written consent of the Architectural Control Committee.

The term "Declarant" as used in this Section 9. and Section 8. above shall refer to Declarant as defined in Article I and such of its successors or assigns to whom the rights under this Section 9; and/or Section 8. above are expressly and specifically transferred.

Section 10. Oil and Mining Operations. No oil drilling or development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any part of the Properties, nor shall any oil well, tank, tunnel, mineral excavation or shaft be permitted upon any part of the Properties. No derrick or other structure designed for use in boring for oil or natural gas shall be allowed on any part of the Properties.

Section 11. Storage and Disposal of Garbage and Refuse. No Lot nor any other part of the Properties shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste materials shall not be kept except in sanitary containers constructed of metal, plastic or masonry materials with sanitary covers or lids. Equipment for the storage or disposal of such waste materials shall be kept in clean and sanitary condition. No Lot nor any other part of the Properties shall be used for the open storage of any materials whatsoever, which storage is visible from the street, except that new building materials used in the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without undue delay, until the completion of the improvements, after which these materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot.

Section 12. Underground Electric System. An underground electric distribution system will be installed in that part of Briargate, Section Ten, designated herein as Underground Residential Subdivision, which underground service area embraces all of the Lots which are platted in Briargate, Section Ten. In the event that there are constructed within the Underground Residential Subdivision structures containing multiple dwelling units such as townhouses, duplexes or apartments, then the underground service area embraces all of the dwelling units involved. The Owner of each Lot containing a single dwelling unit, or in the case of a multiple dwelling unit structure, the Owner/Developer shall, at his or its own cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electric Code) the underground service cable and appurtenances from the point of electric company's metering at the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. Declarant has either by designation on the Subdivision Plat or by separate instrument granted necessary easements to the electric company providing for the installation, maintenance and operation of its electric distribution system and has also granted

DEED
VOL. 807 PAGE 66

to the various homeowners reciprocal easements providing for access to the area occupied by and centered on the service wires of the various homeowners to permit installation, repair and maintenance of each homeowner's owned and installed service wires. In addition, the Owner of each Lot containing a single dwelling unit, or in the case of a multiple dwelling unit structure, the Owner/Developer shall at his or its own cost, furnish, install, own and maintain a meter loop (in accordance with the then current Standards and Specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for each dwelling unit involved. For so long as underground service is maintained in the Underground Residential Subdivision, the electric service to each dwelling unit therein shall be underground, uniform in character and exclusively of the type known as single phase, 240/120 volt, three wire, 60 cycle, alternating current.

The electric company has installed the underground electric distribution system in the Underground Residential Subdivision at no cost to Declarant (except for certain conduits, where applicable, and except as hereinafter provided) upon Declarant's representation that the Underground Residential Subdivision is being developed for residential dwelling units, including homes, and if permitted by the restrictions applicable to such subdivision, townhouses, duplexes and apartment structures, all of which are designed to be permanently located where originally constructed (such category of dwelling units expressly to exclude mobile homes) which are built for sale or rent and all of which multiple dwelling unit structures are wired so as to provide for separate metering to each dwelling unit. Should the plans of the Declarant or the Lot Owners in the Underground Residential Subdivision be changed so as to permit the erection therein of one or more mobile homes, Company shall not be obligated to provide electric service to any such mobile home unless (a) Declarant has paid to the Company an amount representing the excess in cost, for the entire Underground Residential Subdivision, of the underground distribution system over the cost of equivalent overhead facilities to serve such Subdivision or (b) the Owner of each affected Lot, or the applicant for service to any mobile home, shall pay to the Company the sum of (1) \$1.75 per front Lot foot, it having been agreed that such amount reasonably represents the excess in cost of the Underground Distribution System to serve such Lot or dwelling unit, plus (2) the cost of rearranging and adding any electric facilities serving such Lot, which arrangement and/or addition is determined by Company to be necessary.

The provisions of the two preceding paragraphs also apply to any future residential development in Reserve(s), if any, shown on the plat of the Properties, as such plat exists at the execution of the agreement for underground electric service between the electric company and Declarant or thereafter. Specifically, but not by way of limitation, if a Lot Owner in a former Reserve undertakes some action which would have invoked the above per front Lot foot payment if such action had been undertaken in the Underground Residential Subdivision, such Owner or applicant for service shall pay the electric company \$1.75 per front Lot foot, unless Declarant has paid the electric company as above described. The provisions of the two preceding paragraphs do not apply to any future nonresidential development in such Reserve(s).

No provision of this Section 12. (the text of which is prescribed by the electric company) shall in any manner operate or be construed to permit the construction on any Lot of any type or residential structure other than a single family residence as provided in Section 1. of this Article III.

Section 13. Use of Common Properties. There shall be no obstruction of any part of the Common Properties, which are intended to remain unobstructed for the reasonable use and enjoyment

DEED

VOL 807 PAGE 67

thereof. No Owner shall appropriate any part of the Common Properties to his exclusive use, nor shall any Owner do anything which would violate the easements, rights, and privileges of any Owner in regard to any portion of the Common Properties which is intended for the common use and benefit of all Owners. Except as may be herein permitted, no Member shall plant, place, fix, install, or construct any vegetation, hedge, tree, shrub, fence, wall, structure, or improvements or store any of his personal property on the Common Properties or any part thereof without the written consent of the Association first obtained. The Association shall have the right to remove anything placed on the Common Properties in violation of the provisions of this Section 13. and to recover the cost of such removal from the Owner responsible in the manner provided in Section 4. of this Article III.

ARTICLE IV

Architectural Control Committee

Section 1. Approval of Building Plans. No building shall be erected, placed, or altered on any Lot until the construction plans and specifications and a plot plan showing the location of the structure, have been approved in writing as to harmony of exterior design and color with existing structures, as to location with respect to topography, finished ground elevation and orientation relative to Lot lines and building setback lines, and as to compliance with minimum construction standards by the Briar-gate Architectural Control Committee. A copy of the construction plans and specifications and a plot plan, together with such information as may be deemed pertinent, shall be submitted to the Architectural Control Committee, or its designated representative, prior to commencement of construction. The Architectural Control Committee may require the submission of such plans, specifications, and plot plans, together with such other documents as it deems appropriate, in such form and detail as it may elect at its entire discretion. In the event the Architectural Control Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the same are submitted to it, approval will not be required and the requirements of this Section will be deemed to have been fully complied with; provided, however, failure to timely approve or disapprove such plans and specifications shall not be deemed to permit the erection, construction, placing or altering of any structure on any Lot in a manner prohibited under the terms of this Supplemental Declaration.

Section 2. Committee Membership. The Architectural Control Committee has been formed and is composed of persons designated by Declarant, who by majority vote may designate a representative to act for them.

Section 3. Replacement. In the event of death or resignation of any member or members of said committee, the remaining member or members shall appoint a successor member or members, and until such successor member or members shall have been so appointed, the remaining member or members shall have full authority to approve or disapprove plans, specifications and plot plans submitted or to designate a representative with like authority.

Section 4. Minimum Construction Standards. The Architectural Control Committee may from time to time promulgate an outline of minimum acceptable construction standards; provided, however, that such outline will serve as a minimum guideline and such Architectural Control Committee shall not be bound thereby.

Section 5. Term. The duties and powers of the Architectural Control Committee and of the designated representative shall cease on and after ten (10) years from the date of this instrument. Thereafter, the approval described in this covenant shall not be

DEED

VOL 807 PAGE 68

required, and all power vested in said Committee by this covenant shall cease and terminate; PROVIDED, that any time after January 1, 1978, whether or not the term of the Architectural Control Committee specified in the preceding sentence shall have expired, by a two-thirds (2/3) vote of the members present and voting, the Board of Trustees of the Briargate Community Improvement Association may assume the duties and powers of the Architectural Control Committee, and thereafter the Board of Trustees of the Association shall have all of the rights, benefits and powers provided herein for the Architectural Control Committee.

Section 6. Variances. Article III of this Supplemental Declaration contains a number of provisions wherein the Architectural Control Committee is expressly granted the authority, in its discretion, to permit variances from the effect of a particular restrictive covenant. The Architectural Control Committee may require the submission to it of such documents and items (including, as examples but without limitation, written request for and description of the variances requested, plans, specifications, plot plans and samples of materials) as it shall deem appropriate, in connection with its consideration of a request for a variance. If the Architectural Control Committee shall approve such request for a variance, the Architectural Control Committee may evidence such approval, and grant its permission for such variance, only by written instrument, addressed to the Owner of the Lot(s) relative to which such variance has been requested, describing the applicable restrictive covenant(s) and the particular variance requested, expressing the decision of the Architectural Control Committee to permit the variance, describing (when applicable) the conditions on which the variance has been approved (including, as examples but without limitation, the type of alternate materials to be permitted, the alternate fence height approved or specifying the location, plans and specifications applicable to an approved carport), and signed by a majority of the then members of the Architectural Control Committee (or by the Committee's designated representative if one has been designated under the authority contained in Section 2. above). Any request for a variance shall be deemed to have been disapproved for the purposes hereof in the event of either (a) written notice of disapproval from the Architectural Control Committee; or (b) failure by the Architectural Control Committee to respond to the request for variance. In the event the Architectural Control Committee or any successor to the authority thereof shall not then be functioning, and/or the term of the Architectural Control Committee shall have expired and the Board of Trustees of the Association shall not have succeeded to the authority thereof as herein provided, no variances from the covenants of this Declaration shall be permitted, it being the intention of Declarant that no variances be available except in the discretion of the Architectural Control Committee or, if it shall have succeeded to the authority of the Architectural Control Committee in the manner provided herein, the Board of Trustees of the Association. The Architectural Control Committee shall have no authority to approve any variance except as expressly provided in this Supplemental Declaration.

ARTICLE V

The Briargate
Community Improvement Association

Section 1. Organization. The Declarant has caused the Association to be organized and formed as a non-profit corporation under the laws of the State of Texas.

Section 2. Purpose. The purpose of the Association in general is to provide for and promote the health, safety, and welfare of the Members, to collect the annual maintenance charges, and to administer the Maintenance Fund, to provide for the maintenance, repair,

DEED
VOL 807 PAGE 69

preservation, upkeep, and protection of the Common Properties and any Common Facilities in the Subdivision and such other purposes as are stated in the Articles of Incorporation consistent with the provisions of the Declaration and all Supplemental Declarations.

Section 3. Membership. Every Owner of a Lot in the Subdivision which is subject to a maintenance charge assessment by the Association, including contract sellers, shall be a member of the BriarGate Community Improvement Association. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of the Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership.

Section 4. Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A members shall be all those Owners as defined in Section 3. of this Article V., with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in the Subdivision in which they hold the interest required for membership by Section 3. When more than one person holds such interest in any Lot all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

Class B: The Class B member shall be the Declarant. The Class B member shall be entitled to three (3) votes for each Lot in the Subdivision in which it holds the interest required for membership by Section 3.; provided, however, that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- a. When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- b. On January 1, 1979.

Except as may be specifically provided to the contrary in the Declaration and all Supplemental Declarations, the Class A and Class B members shall have no rights as such to vote as a class, and both classes shall vote together upon all matters as one group.

Section 5. Title to Common Properties. The Declarant may retain the legal title to any Common Properties and Common Facilities in the Subdivision until such time as the Association is able to maintain the same. Until title to such Common Properties and Common Facilities, if any, has been conveyed to the Association by Declarant, Declarant shall be entitled to exercise all rights and privileges relating to such Common Properties and Common Facilities, if any, granted to the Association in the Declaration and all Supplemental Declarations.

ARTICLE VI

Covenants for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligations of Assessments. Each Lot in the Properties is hereby subjected to an annual maintenance charge, and the Declarant, for each Lot owned

DEED
VOL 807 PAGE 70

by it 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 annual maintenance charge assessments, such assessments to be established and collected as hereinafter provided and shall constitute the proceeds of a fund (hereinafter called "the maintenance fund") to be used for the purposes hereinafter provided. The annual maintenance charge assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents in the Subdivision, and the Association shall use the proceeds of said maintenance fund for the use and benefit of all residents of the Subdivision; provided, however, that each future section of Briargate Subdivision (and any other property or properties included in the Subdivision), to be entitled to the benefit of this maintenance fund, must be impressed with and subjected to an annual maintenance charge and assessment on a uniform, per Lot basis, substantially equivalent to the maintenance charge and assessment imposed hereby, and further made subject to the jurisdiction of the Association in the manner provided in Article VIII hereof. The uses and benefits to be provided by said Association shall include, by way of example but without limitation, at its sole option, any and all of the following: maintaining parkways, rights-of-way, easements and esplanades; furnishing and maintaining landscaping, lighting and beautification of the Properties; payment of all legal and other expenses incurred in connection with the enforcement of all recorded charges and assessments, covenants, restrictions, and conditions affecting the properties to which the maintenance fund applies; payment of all reasonable and necessary expenses in connection with the collection and administration of the maintenance charge and assessment; employing policemen and watchmen; and doing such other things and taking such other actions as are necessary or desirable in the opinion of the Association to keep the Properties and the Subdivision neat and in good order, or which is considered of general benefit to the Owners or occupants of the Lots in the Subdivision, it being understood that the judgment of the Association in the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

Section 3: Maximum Annual Assessment. The initial annual assessment shall be One Hundred Twenty and No/100 Dollars (\$120.00) per Lot per annum. The Board of Trustees of the Association may decrease or increase the amount of the annual maintenance charges provided for herein at any time and from time to time by the adoption of a resolution for such purpose, but no resolution increasing the applicable annual maintenance charge assessments shall become effective prior to the expiration of ninety (90) days from date of its adoption, and the Owner of each applicable Lot shall, within thirty (30) days from such effective date, pay to the Association the proportionate part of such increase for the balance of the year in which such resolution is adopted; provided, however, that no resolution of the Board of Trustees which fixes the amount of the annual maintenance charge in excess of One Hundred Forty-Four and No/100 Dollars (\$144.00) per year or in excess of the annual maintenance charge last ratified by the Members of the Association in accordance with the provisions of this Section, whichever is greater, shall become

DEED
NO. 807 PAGE 71

effective unless and until such resolution is ratified either (i) by the written assent of the Owners of at least fifty-one percent (51%) of the Lots in the Subdivision if no meeting of the membership is held for ratification, or (ii) by the assent of fifty-one percent (51%) of the votes in person or by proxy at a special meeting of the membership of the Association called for this purpose and at which a quorum is present.

Section 4. Special Assessments for Capital Improvements. In addition to the regular annual maintenance charge assessments provided for above, the Association may levy a special assessment for any one assessment period for the purpose of any construction, reconstruction, repair, or replacement of a capital improvement upon any Common Property, including the cost of any fixture or personal property directly related to such capital improvement, provided that any such special assessment shall have the assent of two-thirds (2/3rds) of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3. and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3. and 4. shall be sent to all Members not less than thirty (30) days nor more than sixty (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 votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Rate of Assessments. The rate for all Lots shall be fifty percent (50%) of the annual assessment fixed by the Board of Trustees until the first day of the month following completion and occupancy of a permanent residential structure on each such Lot; thereafter, such rate for such Lot shall be one hundred percent (100%) of the annual assessment fixed by the Board of Trustees.

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 immediately following the date of the first conveyance of a Lot to a person other than Declarant or a builder, and the annual assessment period shall be the calendar year. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year after such commencement. Thereafter, the Board of Trustees 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 (which may be monthly, quarterly, semiannually or annually) shall be established by the Board of Trustees. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 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 eight percent (8%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien created hereby against the Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his Lot.

DEED
VOL. 807 PAGE 72

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein, as it applies to any Lot, shall be second, subordinate and inferior to all liens, present and future, given, granted and created by or at the instance or request of the Owner of any such Lot to secure the payment of moneys advanced or to be advanced on account of the purchase price and/or the improvement of any such Lot, and further provided that as a condition precedent to any proceeding to enforce such lien upon any Lot upon which there is an outstanding valid and subsisting mortgage lien, said beneficiary shall give the holder of such mortgage lien sixty (60) days written notice of such proposed action, such notice, which shall be sent to the nearest office of such mortgage holder by prepaid U. S. Registered Mail, to contain the statement of the delinquent maintenance charges upon which the proposed action is based. Upon the request of any such mortgage lien holder, said beneficiary shall acknowledge in writing its obligation to give the foregoing notice with respect to the particular lot covered by such mortgage lien to the holder thereof. No sale or transfer of a Lot shall relieve the Owner of such Lot from liability for any assessments theretofore having become due on such Lot from the lien thereon.

ARTICLE VII

Property Rights in the Common Properties and any Common Facilities

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 2. of this Article VII, every Member shall have a common right and easement of enjoyment in and to the Common Properties and any Common Facilities in the Subdivision, and such right and easement shall be appurtenant to and shall pass with the title to each Lot in the Subdivision.

Section 2. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) The right of the Association, in its discretion, to charge reasonable admission and other fees for the use of any Common Facilities, and to make, publish, and enforce reasonable rules and regulations governing the use and enjoyment of the Common Properties and any Common Facilities or any part thereof, all of which reasonable rules and regulations shall be binding upon, complied with, and observed by each Member. These rules and regulations may include provisions to govern and control the use of such Common Properties and any Common Facilities by guests or invitees of the Members, including, without limitation, the number of guests or invitees who may use such Common Properties and any Common Facilities or any part thereof at the same time; and
- (b) The right of the Association to grant or dedicate easements in, on, under, or above such Common Properties or any part thereof, in accordance with the requirements as set forth in the Articles of Incorporation and the By-Laws of the Association, to any public or governmental agency or authority or to any utility company for any service to the Subdivision or any part thereof; and
- (c) The right of the Association to transfer title to any storm sewer line, sanitary sewer line, water line, or any other utility facility or equipment

DEED

VOL. 807 PAGE 73

situated in any part of such Common Properties and owned by the Association, in accordance with the requirements as set forth in the Articles of Incorporation and By-Laws of the Association, to any public or political authority or agency or to any utility company rendering or to render service to the Subdivision or any part thereof; and

- (d) The right of the Association to convey or dedicate portions of such Common Properties, in accordance with the requirements as set forth in the Articles of Incorporation and the By-Laws of the Association, to governmental authorities, political subdivision, or other persons or entities for use as the location of schools, churches, and hospitals, or for other similar purposes related to the health, safety, and welfare of the Members; and
- (e) The right of the Association to enter management and/or operating contracts or agreements relative to the maintenance and operation of such Common Properties and any Common Facilities in such instances and on such terms as its Board of Trustees may deem appropriate; the right of the Association to operate facilities and related concessions located on such Common Properties; the right of the Association to enter into lease agreements or concession agreements granting leasehold, concession, or other operating rights relative to any Common Facilities in such instances and on such terms as its Board of Trustees may deem appropriate; and
- (f) The right of the Association to suspend the voting rights of a Member or his right to use any Common Facility during the period he is in default in the payment of any maintenance charge assessment or special assessment against his Lot; and to suspend such rights for a period not to exceed sixty (60) days for any infractions of its published rules and regulations; and the aforesaid rights of the Association shall not be exclusive, but shall be cumulative of and in addition to all other rights and remedies which the Association may have in the Declaration and Supplemental Declarations or in its By-Laws or at law or in equity on account of any such default or infraction; and
- (g) The rights and easements existing, herein created, or hereafter created in favor of others, as provided for in Article II hereof, and in the Declaration and other Supplemental Declarations; and
- (h) The restrictions as to use of the Common Properties provided for in Article III hereof.

Section 3. Delegation of Use. Any Member may delegate his right of use and enjoyment of the Common Properties and any Common Facilities in the Subdivision, together with all easement rights granted to Members in the Declaration and all Supplemental Declarations, to the members of his family, his tenants, or contract purchasers who reside on his Lot. The term "Member" is further defined to include and refer to the executors, personal representatives and administrators of any Member, and all other persons, firms, or corporations acquiring or succeeding to the title of the Member by sale, grant, will, foreclosure, execution, or by any legal process, or by operation of law, or in any other legal manner.

ARTICLE VIII

General Provisions

DEED

VOL 807 PAGE 74

Section 1. Term. The covenants and restrictions of this Supplemental Declaration shall run with and bind the Properties, and shall inure to the benefit of the Association and all Owners, their respective legal representative, heirs, successors and assigns, for an initial term commencing on the effective date hereof and ending December 31, 2018. During such initial term the covenants and restrictions of this Supplemental Declaration may be changed or terminated only by an instrument signed by the then Owners of a majority of all Lots in the Properties, and properly recorded in the appropriate records of Harris County, Texas. Upon the expiration of such initial term, said covenants and restrictions (if not previously terminated and as changed, if changed), and the enforcement rights relative thereto, shall be automatically extended for successive periods of ten (10) years. During such ten (10) year extension periods, the covenants and restrictions of this Supplemental Declaration may be changed or terminated only by an instrument signed by the then Owners of a majority of all the Lots in the Properties, and properly recorded in the appropriate records of Harris County, Texas. Upon any violation or attempt to violate any of the covenants herein, it shall be lawful for the Association or any other owner to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them from doing so or to recover damages or other dues for violations.

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

Section 3. Additions to Existing Property. Additional lands may become subject to the scheme of this Supplemental Declaration in the following manner:

- (a) Additions by Declarant. The Declarant, its successors and assigns, shall have the right to bring within the scheme of the Declaration additional properties in future stages of the development upon FHA/VA approval of each of such future stages, if such future stages are a part of the previously FHA/VA approved general plan of the entire development. Any additions authorized under this and the succeeding subsections shall be made by securing the required FHA/VA approval, which shall be deemed to have been given upon the FHA's issuance of its ASP-9 covering the properties to be annexed, and the filing of record of a Supplemental Declaration of Covenants, Conditions and Restrictions with respect to the additional property which shall extend the scheme of the covenants, conditions and restrictions of the Declaration to such property. Such Supplemental Declaration must impose an annual maintenance charge assessment on the property covered thereby, on a uniform, per lot basis, substantially equivalent to the maintenance charge and assessment imposed by the Declaration, and may contain such complementary additions and/or modifications of the covenants, conditions and restrictions contained in the Declaration as may be applicable to the additional lands.

DEED

VOL. 807 PAGE 75

(b) Other additions. Upon the approval of two-thirds of the votes of each class of membership, the owner of any property who desires to add it to the jurisdiction of the Association, may do so by filing of record a Supplemental Declaration of Covenants, Conditions and Restrictions, and upon the satisfaction of the conditions specified in Subsection (a) above. As long as there is a Class B Membership, as that term is defined in Section 4. of Article V of this Supplemental Declaration, such annexation shall require the approval of FHA/VA as specified in Subsection (a) above.

(c) Mergers. Upon a merger or consolidation of the Association with another association, the Association's properties, rights, and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association may be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association shall administer the covenants, conditions and restrictions applicable to the properties of the merging or consolidating other associations as one scheme. No such merger or consolidation, however, shall effect any revocation, change, or addition to the covenants established by the Declaration or any Supplemental Declaration.

Section 4. Amendments by Declarant. The Declarant shall have and reserves the right at any time and from time to time, without the joinder or consent of any other party, to amend this Supplemental Declaration by any instrument in writing duly signed, acknowledged, and filed for record for the purpose of correcting any typographical or grammatical error, ambiguity or inconsistency appearing herein, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by the Declaration and all Supplemental Declarations and shall not impair or affect the vested property or other rights of any Owner or his mortgagee.

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

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

Section 7. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Supplemental Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 8. Gender and Grammar. The singular, whenever used herein, shall be construed to mean the plural, when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, males

DEED

Vol. 807 PAGE 76

of females, shall in all cases be assumed as though in each case fully expressed.

Section 9. FHA/VA Approval. So long as there shall be a Class B Membership in the Association, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, merger or consolidation of the Association with another association, dedication of common areas, and amendment of this Supplemental Declaration.

Section 10. Approval of Trustees. The members of the Board of Trustees of the Association have joined in the execution hereof to evidence its consent hereto and its acceptance of the Properties into the jurisdiction of the Association.

EXECUTED this 22 day of November, 1978, A.D.

KEVALAND TEXAS CORPORATION doing business as Blue Ridge Associates

Kevaland Texas Corporation

BY: M. R. Shilling
M. R. Shilling, Vice President

"DECLARANT"

Attest:

Henry E. Booher, Secretary

BRIARGATE COMMUNITY IMPROVEMENT ASSOCIATION

BY: [Signature]
Member, Board of Trustees

BY: [Signature]
Member, Board of Trustees

BY: [Signature]
Member, Board of Trustees

BY: [Signature]
Member, Board of Trustees

BY: [Signature]
Member, Board of Trustees

"BOARD OF TRUSTEES"

THE STATE OF TEXAS
COUNTY OF HARRIS

§
§
§

DEED
VOL. 807 PAGE 77

BEFORE ME, the undersigned authority, on this day personally appeared M. P. SHILLING, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in his capacity as Vice President of KEVALAND TEXAS CORPORATION, doing business as Blue Ridge Associates, as its binding act and deed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 2nd day of November, 1978.

Deborah A. McDonald
NOTARY PUBLIC in and for
HARRIS County, Texas

My Commission Expires:
July 13, 1980

DEBORAH A. McDONALD
(Print Name)

THE STATE OF TEXAS
COUNTY OF HARRIS

§
§
§

BEFORE ME, the undersigned authority, on this day personally appeared J. L. TIPPS, member of the Board of Trustees of BRIARGATE COMMUNITY IMPROVEMENT ASSOCIATION, a Texas non-profit association, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said Association.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 7th day of November, 1978.

Deborah A. McDonald
NOTARY PUBLIC in and for
HARRIS County, Texas

My Commission Expires:
February 13, 1980

DEBORAH A. McDONALD
(Print Name)

THE STATE OF TEXAS
COUNTY OF HARRIS

§
§
§

BEFORE ME, the undersigned authority, on this day personally appeared MARY L. HOLANDES, member of the Board of Trustees of BRIARGATE COMMUNITY IMPROVEMENT ASSOCIATION, a Texas non-profit association, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said Association.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 7th day of November, 1978.

Deborah A. McDonald
NOTARY PUBLIC in and for
HARRIS County, Texas

My Commission Expires:
February 13, 1980

DEBORAH A. McDONALD
(Print Name)

DEED
VOL 807 PAGE 78

THE STATE OF TEXAS §
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared OLIVIA HARD, member of the Board of Trustees of BRIARGATE COMMUNITY IMPROVEMENT ASSOCIATION, a Texas non-profit association, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said Association.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 7th day of December, 1978.

Deborah A. McDonald
NOTARY PUBLIC in and for
Harris County, Texas
DEBORAH A. Mc DONALD
(Print Name)

My Commission Expires:
February 13, 1980

THE STATE OF TEXAS §
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared ROBIN S. ERREY, member of the Board of Trustees of BRIARGATE COMMUNITY IMPROVEMENT ASSOCIATION, a Texas non-profit association, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said Association.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 7th day of December, 1978.

Deborah A. McDonald
NOTARY PUBLIC in and for
Harris County, Texas
DEBORAH A. Mc DONALD
(Print Name)

My Commission Expires:
February 13, 1980

THE STATE OF TEXAS §
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared MARN SIMASO, member of the Board of Trustees of BRIARGATE COMMUNITY IMPROVEMENT ASSOCIATION, a Texas non-profit association, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said Association.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 7th day of December, 1978.

Deborah A. McDonald
NOTARY PUBLIC in and for
Harris County, Texas
DEBORAH A. Mc DONALD
(Print Name)

My Commission Expires:
February 13, 1980

DEED

807 PAGE 79

FILED FOR RECORD

NOV 9 1978

Pearl Ellett
COUNTY CLERK, FORT BEND COUNTY, TEX.

Blue Ridge Associates
1603 First City East Bldg.
Houston, Texas 77002

Duly recorded this the 13 day of November A.D. at 4:30 O'Clock P.M.
Pearl Ellett, County Clerk
Fort Bend County, Texas

By *Alvinia L. Carter* deputy

UNOFFICIAL COPY