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183-16-2171

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS

ASHFORD PARK, SECTION TWO

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 T.M.C. FUNDING, 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 Ashford Park, Section Two, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 247, Page 46 of the Map Records of Harris County, Texas; and being a part of that certain tract ("Initial Tract") of land described in the Deed recorded in the Official Public Records of Real Property of Harris County, Texas under County Clerk's File No. E-552986; and

WHEREAS, according to the terms and provisions of the Declaration of Covenants, Conditions and Restrictions covering Ashford Park, Section One, any additional land out of the said Initial Tract may be annexed to the Subdivision hereinafter defined by Declarant; and

WHEREAS, it is deemed to be in the best interests of Declarant and any other persons who may purchase property in Ashford Park, Section Two, that Ashford Park, Section Two be and hereby is annexed and made a part of Ashford Park, Section One, for the purpose of establishing and maintaining a uniform plan for the improvement and development of Ashford Park, Section Two, as a highly restricted and modern subdivision of the highest quality, and making the owners and residents of property in Ashford Park, Section Two, members of the "Association" as defined herein and in the restrictions for Ashford Park, Section One.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above as Ashford Park, Section Two 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 each owner thereof.

#### ARTICLE I

##### Definitions

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

Section 2. "Common Area" shall mean and refer to that portion of the Subdivision owned or acquired by the Association for the common use and enjoyment of the Members of the Association and shall include, but is not limited to, all recreational facilities, community facilities, swimming pools, storage facilities, pumps, trees, landscaping, sprinkler systems, pavement, streets, pipes, wires, conduits and other public utility lines situated thereon. The Common Area is more particularly described as all of Unrestricted Reserve A of Ashford Park, Section One, according to the map or plat thereof recorded in Volume 249, Page 71 of the Map Records of Harris County, Texas.

Section 3. "Declarant" shall mean and refer to T.M.C. Funding, Inc., a Texas corporation, its successors and assigns, if such successors and assigns should acquire more

than one Lot in the Subdivision for purposes of development or resale.

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 Lot" shall mean and refer to any Lot on which there is a 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 that certain real property within the perimeters of the legal description of Ashford Park, Section One, as set forth on the map or plat thereof recorded in Volume 249, Page 71 of the Map Records of Harris County, Texas; and Ashford Park, Section Two, as set forth on the map or plat thereof recorded in Volume 247, Page 46 of the Map Records of Harris County, Texas, and being out of a 32.67 acre tract of land located in the Wm. Hardin Survey, Abstract No. 24, in Harris County, Texas.

## ARTICLE II

## Property Rights

Section 1. 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;

(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; and

(d) The right of the Association to limit the number of guests of Members.

Section 2. 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 3. Title to the Common Area: The Declarant hereby covenants for itself, its successors and assigns, that it has conveyed fee simple title to the Common Area to the Association, free and clear of all encumbrances and liens. 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 Declarant reserves the right to grant, convey, dedicate or reserve easements over, on or under the Common Area for utility services as set forth in Article X, Section 1 hereinafter.

### ARTICLE III

#### Membership and Voting Rights

Section 1. Membership: Every person or entity who is a record owner of a fee or undivided fee interest in a Lot which is a part of the Subdivision, including contract sellers, shall hold a membership in the Association. The foregoing is not intended to include persons or entities who hold an interest in a Lot merely as security for the performance of an obligation. 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 in the Association, other than Declarant, shall be considered Class A Members, and for each Lot owned shall be entitled to one vote on each matter coming before the Members at

any meeting or otherwise, unless their voting rights have been suspended by the Board of Directors as hereinabove provided in Article II, Section 1(b). When a particular Lot is owned by more than individual or entity, all 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 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.

(b) Class B: Class B Members shall be those individuals or entities who are herein defined as Declarant, and for each Lot owned they shall be entitled to three votes on each matter coming before the Members at any meeting or otherwise. When a particular Lot is owned by more than one such individual or entity, all such individuals or entities holding an ownership interest in that Lot shall be considered Class B Members, however, for that particular Lot they shall be entitled to a total of no more than three votes on each matter coming before the Members at any meeting or otherwise. The three votes for such Lot shall be exercised as they among themselves determine. Once a Lot is sold to an individual or individuals who would be classified as Class A Members, the three votes attached to that Lot shall be extinguished. All Class B Memberships shall cease and be automatically converted into Class A Memberships on the happening of either of the following events, whichever occurs earlier:

(i) When the total number of votes entitled to be cast by the Class A Members at any meeting of the Members or otherwise equals the total number of votes entitled to be cast by the Class B Members; or

(ii) Ten (10) years from the date this Declaration of Covenants, Conditions and Restrictions is filed with the County Clerk of Harris County, Texas, for recordation in the Deed Records of Harris County, Texas.

#### 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 which shall be or thereafter become subject to the assessments hereinafter provided for, hereby covenants, and each Owner of any Lot which shall be or thereafter become assessable, 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 the 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 being 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 One Hundred Forty-Four and No/100 Dollars (\$144.00) 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 be automatically increased, effective January 1 of each year, in conformance with the rise, if any, in the Consumer



Price Index (published by the Department of Labor, Washington, D.C.) for the preceding month of July or alternatively, by an amount equal to a ten percent (10%) increase over the prior years annual assessment, whichever is greater, without a vote of the Members of the Association. 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 Owners of two-thirds (2/3) of the Lots in the Subdivision. This increase shall become effective on the date specified in the document evidencing such approval only after such document has been filed with the County Clerk of Harris County, Texas, for recordation in the Deed Records of Harris County, Texas. 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 Improvement:

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, or unexpected repair or replacement of a particular capital improvement located upon the Common Area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the written approval of the Owners of two-thirds (2/3) of the Lots in the Subdivision.

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 and shall be posted at a public place within the Subdivision 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 the Members holding seventy-five percent (75%) of all membership votes entitled to be cast in each membership class 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: Both annual and special assessments on all Lots, whether or not owned by the Declarant, must be fixed at uniform rates as follows:

(a) Occupied Lots: Those Lots containing an occupied Living Unit shall be assessed the full assessment 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 fifty percent (50%) of the full assessment 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 at a rate equal to fifty percent (50%) of the full assessment 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.

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 conveyance of a lot by Declarant. 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 fix the amount of the annual assessment to be levied against each Lot in the next calendar year. Written notice of the figure at which the Board of Directors of the Association has set the annual assessment 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 the 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 became 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 other 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.

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 the Common Area and all improvements thereon in an amount equal to the full replacement value of the improvements and facilities located upon the 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 all of the Common Area and insuring the Association, within such limits as it may consider acceptable (but with coverage of not less than \$1,000,000 for all claims for personal injury and/or property damage arising out of a single occurrence); such coverage to include protection against water damage liability, liability for nonowned 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 Association deems necessary for the protection of the Owners.

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 or improvement owned by the Association is damaged or destroyed, they shall be used to repair, restore and rebuild such building or improvements. In the latter event, 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, reconstruction or rebuilding of such destroyed improvements or buildings. In the event the insurance proceeds are insufficient to pay all costs of repairing and/or rebuilding said improvements to their 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 James C. Box, Roy R. Behrens and Michael A. Hunt, 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, 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 conveyed in person or by registered mail, return receipt requested. In the event said Committee or its designated representative(s) fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, or in any event, if no plans and specifications have been submitted and if no suit to enjoin the erection of such improvements or the making of such alterations has been commenced prior to ninety (90) days after the completion thereof, such approval 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.

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, 1987. Thereafter, the duties and powers of the Committee shall vest in the Board of Directors of the Association or an Architectural Control Committee composed of three (3) or more representatives appointed by the Board of Directors of the Association. The approval required in 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, 1987, 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.

#### 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 and commercial and professional uses whether from homes, residences, or otherwise, and all such uses of said property are hereby expressly prohibited.

Section 2. Common Area: The Common Area 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, except upon Lots in Reserves, 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 of the Association shall have the right to approve the design and wording of all signs and 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 of not less than one thousand five hundred (1,500) square feet and not more than two (2) stories, together with a private garage or carport of not less than four hundred (400) square feet, and with a roof of either wood shingles, tile, or composition of the Timberline type or an equal approved by the Committee.

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. However, all dwellings constructed on Lots may have one outside wall abutting the property line designated as the "zero setback line" for that Lot, except in the case of corner lots or unless a different layout is authorized in writing by the Committee. Corner lots may have a "zero setback line" opposite the side street. 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 five (5) feet from the Living Unit or appurtenant structure on any contiguous Lot(s). Overhang of the walls and roofs of such buildings or structures shall be permitted beyond the zero setback lines and property lines so long as such overhang does not extend out more than eighteen (18) inches from the slab or foundation and roofs on the zero setback line shall be constructed in such a manner as not to drain onto the adjacent Lot. No windows, doors or other openings may be placed in the wall built on or parallel to the zero setback line unless the wall is a minimum of three (3) feet from the zero setback line except that walls on the zero setback line may have openings if such wall faces onto a reserve or easement. Where a Lot has frontage on both a public street and a private street, the main entrance to the dwelling constructed thereon shall face, and the driveway thereon shall provide access from, the private street regardless of the amount of frontage on the public street, unless the Committee authorizes a different layout in writing.

Section 8. Zero Setback Line Building Materials. The side wall of a Living Unit or appurtenant structure built on the zero setback line shall be constructed using permanent low-maintenance material consisting of masonry with brick-face exterior or similar material as approved by the

Committee; and such walls shall satisfy the City of Houston Building Code as to fire resistance. The Owner of any adjacent Lot shall not attach anything to a side wall or fence located upon the zero setback line.

Section 9. 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 1,500 square feet of usable floor space exclusive of porches and garage, in the case of a one-story structure, and 1,000 square feet on the ground floor in the case of a two-story structure; unless otherwise approved by the Committee.

Section 10. 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 11. 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.

Section 12. 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 13. 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 and motor vehicles shall not be used on any Lot at any time as a residence, either temporarily or permanently.

Section 14. Metal Buildings: No metal buildings of any type shall be placed or constructed upon any Lot.

Section 15. 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 16. Clotheslines: No outside clothesline shall be constructed or maintained on any Lot within sight of the Common Area or any street or adjacent Lot.

Section 17. 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 the Common Area and any street or adjacent Lot, except on days designated by the Association for pick-up of such garbage. No incinerator may be maintained on any portion of the Subdivision.

Section 18. Exterior Antennas: Without the prior written approval and authorization of the Board of Directors of the Association, 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 19. Storage of Vehicles: No portion of the streets or 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 the Common Area or any street or adjacent Lot.

Section 20. 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 21. 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 22. 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 23. Fencing. No wall or fence in excess of two (2) feet shall be erected or maintained nearer to the front lot line than the front wall of the residence. All side or rear fences, where permitted to be built of a height in excess of two (2) feet, shall be exactly six (6) feet high and such fences shall be constructed of vertical abutting 1" x 6" to 1" to 12" western cedar or redwood boards. Lots One, Two, Three, Four, Five, Six and Seven of Block Eleven and Lots One, Two, Three, Four, Five, Six, Seven, Eight, Nine, Ten, Eleven, Twelve and Thirteen of Block Six shall be required to erect and maintain along the rear lot line a fence meeting the specifications and design described above. Lot one of Block 10 will be required to erect and maintain along the northerly side lot line a fence meeting the specifications and designs described above.

Section 24. 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 25. 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 the 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 26. 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 or upon any common areas.

#### ARTICLE IX

##### Management Agreements

Each Owner hereby agrees to be bound by the terms and conditions of all management agreements entered into by the Association for the management of the common areas and the facilities located thereon. A copy of all such agreements shall be available to each Owner. Any and all management agreements entered into by the Association shall provide that the Association may cancel said management agreement by giving the other party thirty (30) days' written notice when so authorized by the vote of a majority of the membership votes in the Association entitled to be cast at a meeting of the Members or otherwise. In no event shall such management agreement be canceled prior to the time the Association or its Board of Directors negotiate and enter into a new management agreement which is to become operative immediately upon the cancellation of the preceding management agreement. It shall be the duty of the Association or its Board of Directors to effect a new management agreement prior to the expiration of any prior management contract. Any and all management agreements shall be for a term not to exceed one (1) year and shall be made with a professional and respon-

sible party or parties with proven management skills and experience managing a project of this type. The Members of 34th the Association may terminate the professional management of the Subdivision and assume self-management by the Association upon the execution of a written agreement executed by the Members holding a majority of the membership votes entitled to be cast at a meeting of the Members or otherwise. This written agreement may be circulated by a door-to-door canvass of the Members and need not be presented for approval at any meeting of the Members or otherwise.

#### ARTICLE X

##### Easements

Section 1. General: Declarant shall have the right 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 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, 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 a majority of the membership votes entitled to be cast at any meeting of the Members of the Association or otherwise. 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, employees, and to any management company duly selected by the Association, to enter in or cross over the 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.

Section 3. Access Easement: Each Lot and the Common Area shall be subject to a three (3) foot access easement for the construction, repair and maintenance of improvements located upon any adjacent Lot where said improvements are located on the "zero setback line" of the adjacent Lot. The zero setback line owner must replace any fencing, landscaping or other items on the adjoining Lot that he may disturb during such construction, repair or maintenance. Additionally, this easement, when used, must be left clean and unobstructed unless the easement is actively being utilized and any items removed must be replaced. The zero setback line owner must notify the Owner of the adjacent Lot of his intent to do any construction or maintenance upon the zero setback line wall at least twenty-four (24) hours before any work is started, with the hours that such access easement may be utilized being restricted to between the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, and 9:00 a.m. to 6:00 p.m. on Saturdays.

#### ARTICLE XI

##### Annexation

Additional residential property and Common Area may be annexed to the Subdivision upon the favorable vote of two-thirds (2/3rds) of the membership votes entitled to be cast by each membership class at a meeting of the Members or otherwise. However, for a period of seven (7) years after the date this instrument is filed of record with the County Clerk of Harris County, Texas, additional land out of that tract described in the Deed recorded in the Official Public Records of Real Property of Harris County, Texas, under

County Clerk's File No. E-552986, may be annexed to the Sub-division by Declarant or its successors and assigns, without the consent of the Members. Annexation of additional property to this Subdivision shall encumber said property with all the covenants, conditions, restrictions, reservations, liens and charges set forth in this Declaration of Covenants, Conditions and Restrictions and shall become effective on the date an instrument signed and acknowledged by the owner of said annexed property and the appropriate annexing authority (either Declarant or the Association), is filed for record in Harris County, Texas evidencing the annexation. Each such instrument evidencing the annexation of additional property shall describe the portion of the property comprising the Lots and Common Area. Notwithstanding anything to the contrary herein contained, it is expressly understood and agreed that additional property annexed to this Subdivision may be used for attached townhouses. In order for any annexed property to be so used, the recorded instrument evidencing the annexation shall contain an express provision stating that the annexed property may be used for attached townhouses and that this Declaration of Covenants, Conditions and Restrictions is modified only to the extent necessary to accommodate such use on the annexed property. In such event, Declarant shall further set forth in such instrument any additional restrictions which Declarant wishes to impose upon said Lots and such other modifications of this Declaration of Covenants, Conditions and Restrictions as necessary to permit attached townhouses to be constructed in the Sub-division. Any modification of this Declaration of Covenants, Conditions and Restrictions shall only apply to the property annexed and must be consistent with the use of the annexed property for residential, attached townhouses. The funds resulting from any assessment, whether

annual or special, levied against any property hereinafter annexed to the Subdivision may be combined with the funds collected from the Owners of Lots in the Subdivision and may be used for the benefit of all property and all Owners in the manner hereinabove provided.

## ARTICLE XII

### 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 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 filed with the County Clerk of Harris County, Texas for recordation in the Map Records 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 said renewal date an instrument signed and acknowledged by the then Owners of not less than two-thirds (2/3rds) 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 as of said renewal date. Notwithstanding anything to the contrary herein contained, it is expressly understood and agreed that the Owners of two-thirds (2/3rds) 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 (2/3rds) 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.

Section 7. Execution by the Association. The Association, by joining in the execution hereof agrees to be bound by all the terms and provisions of this Declaration.

IN WITNESS WHEREOF, this Declaration is executed on this the 27 day of December, 1977.

T.M.C. FUNDING, INC.

ATTEST:

Lilum A. Fair  
Secretary

By

Harry P. Hewell,  
President

ASHFORD PARK HOMEOWNERS  
ASSOCIATION, INC.

ATTEST:

Jodee Schmalhausen  
Secretary

By

Michael C. L. F.

Republic of Texas Savings Association, the lienholder joins in the execution hereof for the purpose of subordinating all of the liens held by them against the Subdivision unto these presents, and does hereby consent and agree to the imposition of the foregoing reservations, restrictions, covenants and conditions; and Republic of Texas Savings Association hereby agrees that a foreclosure shall not affect such reservations, restrictions and covenants.

RECORDER'S MEMORANDUM:

This instrument is not satisfactory for photostatic reproduction due to carbon or photo copy, discolored paper, etc., or due to illegibility. All block outs, additions and changes were present at time instrument was filed and recorded.