

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR WILLOW POINTE SECTION ONE

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR WILLOW POINTE SECTION ONE

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

THAT THIS DECLARATION is made on the date hereinafter set forth by Winchester Associates, Ltd., a Texas limited partnership (hereinafter referred to as "Declarant"), through Great America Companies, a Texas corporation, its Managing General Partner, acting herein by and through its duly authorized officers.

W I T N E S S E T H

WHEREAS, Declarant is the owner of certain property heretofore platted and subdivided into that certain residential subdivision known as Willow Pointe Section One and is recorded under Clerk's File No. R358289 and Film Code No. 367074 of the Harris County, Texas Map Records (comprised of 101 Lots) and shown in Exhibit "A" attached hereto (the "Initial Property"); and,

WHEREAS, Declarant desires to hold, sell and convey the Initial Property subject to the following covenants, conditions, restrictions, reservations and easements, which are for the purpose of establishing a uniform plan for the development, improvement and sale of the Initial Property, together with such other land constituting the Property from time to time brought within the terms hereof pursuant hereto, and to insure the preservation of such uniform plan for the benefit of both present and future owners of the residential subdivision Lots within the Property; and,

NOW, THEREFORE, Declarant hereby adopts the following covenants, conditions, restrictions, reservations and easements which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property (hereinafter defined) and which shall be applicable to all of the Property (hereinafter defined) from time to time subject hereto, and shall run with the land and shall bind all parties having or acquiring any right, title, or interest therein or any part thereof, their heirs or successors in title and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I
DEFINITIONS**

503-82-3306

Section 1. "Articles" shall mean and refer to the Articles of Incorporation of the Association, including any amendments thereto.

Section 2. "Assessable Tract" shall mean and refer to any Lot or Building Plot from and after the date on which paved public street access, and water and sanitary sewer service have been extended thereto.

Section 3. "Assessments" shall mean and refer to any or all of the Base Annual Assessments and Special Assessments (as defined below) referred to, contemplated or authorized herein or in any Supplemental Declaration from time to time filed of record.

Section 4. "Association" shall mean and refer to WILLOW POINTE HOMEOWNERS ASSOCIATION, INC., a non-profit corporation incorporated under the laws of the State of Texas, its successors and assigns.

Section 5. "Base Annual Assessments" shall mean and refer to the uniform assessment made against Assessable Tracts pursuant to Sections 3 and 5 of Article III hereof.

Section 6. "Board of Directors" and "Board" shall mean and refer to the duly elected Board of Directors of the Association.

Section 7. "Business" or "Business Purpose" shall mean and include, but not limited to, any occupation or venture whether for profit or not; any commercial, industrial or professional dealings; any commercial establishment of any sort; any activity which includes one or more employees of any kind, who is not a member of the family or domestic employee residing on the premises; any establishment frequented by customers; and other activities which are commercial, profit-oriented, or not for profit, industrial, professional or manufacturing in nature and/or which involve the production, manufacturing, trade or sale of goods and services; or giving of services without a fee and/or any non-profit organizations which have one or more employees and/or which are frequented by customers.

Section 8. "Bylaws" means the Bylaws of the Association, including any amendments thereto.

Section 9. "Common Facilities" shall mean and refer to all existing and subsequently provided improvements upon or within the Common Properties, except those as may be expressly excluded herein. Also, in some instances, Common Facilities may consist of improvements dedicated or under contract to the Association for the use and benefit of the Owners of the Lots in the Property, and/or for the

benefit of other owners outside the Property, constructed on portions of one or more Lots or on acreage owned by Declarant (or Declarant and others) which has not been brought within the scheme of The Declaration. By way of illustration, Common Facilities may include, but not necessarily be limited to, the following: structures for recreation; lake and drainage facilities; structures for storage or protection of detention equipment; fountains; statuary; sidewalks; common driveways; landscaping; guardhouses; esplanades; walls and other similar and appurtenant improvements. References herein to "the Common Facilities" or any "Common Facility" shall mean and refer to Common Facilities as defined respectively in The Declaration and all Supplemental Declarations.

Section 10. "Common Properties" shall mean and refer to all those areas of land within the properties except the platted Lots and public streets shown thereon, together with such other land 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 Plats, and/or by virtue of prior grants or dedications by Declarant or Declarant's predecessors in title. References herein to the "Plats" shall mean and refer to all subdivision Plats from time to time filed of record in the Harris County, Texas Map Records with respect to Property covered by The Declaration.

Section 11. "Conveyance" shall mean and refer to conveyance of a fee simple title to a Lot.

Section 12. "Declarant" shall mean and refer to Winchester Associates, Ltd., the Declarant herein, and its successors and assigns if (i) such successors or assigns should acquire more than one Lot from Winchester Associates, Ltd., and (ii) such successors or assigns are designated in writing by Winchester Associates, Ltd., as a successor or assignee of all or part of the rights of Winchester Associates, Ltd., as Declarant hereunder.

Section 13. "The Declaration" shall mean and refer collectively to the covenants, conditions, restrictions, supplemental restrictions, reservations, easements, liens and charges imposed by or expressed in this Declaration of Covenants, Conditions and Restrictions for Willow Pointe Section One as supplemented and/or amended, including any and all Supplemental Declarations.

Section 14. "Easements" shall mean and refer to the various utility or other easements of record, those shown on the map or Plats of the subdivisions within the Property and such other easements as are created or referred to in The Declaration.

Section 15. "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 or by a Single Family, excluding mobile homes or other non-permanent structures.

Section 16. "Lot" or "Building Plot" shall each mean and refer to each plot of land shown upon the recorded subdivision Plats from time to time within the boundaries of the Property and designated by Lot and block number, and to the Living Unit and other improvements constructed or to be constructed thereon, but shall not mean or include any other portions of the Property.

Section 17. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 18. "Modifications Committee" shall mean and refer to the committee created by the Board of Directors of the Association to exercise exclusive jurisdiction over the modifications, additions, or alterations made on or to existing Living Units or other improvements located on Lots as provided in Article IV hereof.

Section 19. "New Construction Committee" shall mean and refer to the committee created by the Declarant to exercise exclusive jurisdiction over all original construction of Living Units upon the Lots within the Property as provided herein.

Section 20. "Occupant" shall mean any person legally entitled to occupy and use all or a portion of the Property.

Section 21. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot or any other part of the Property or the surface estate thereof but excluding those having such interest merely as security for the performance of an obligation.

Section 22. The "Property" shall mean and refer to the Initial Property as defined above and any other tracts of real property annexed pursuant to Article XI or otherwise.

Section 23. "Residential Purposes" as used herein shall be defined as being for dwelling purposes, but held and construed to exclude hospitals, duplex houses, townhouses, condominiums, cooperative timeshares, and apartment houses, and to exclude commercial and professional uses or any other uses as a Business or for a Business Purpose, and uses for any immoral or illegal purposes.

Section 24. "Rules and Regulations" means reasonable and nondiscriminatory rules and regulations as may be adopted from time to time by the Association, provided notice of such rules and regulations has been posted, published, mailed or otherwise given to Owners in accordance with the requirements of this Declaration.

Section 25. "Single Family" shall mean residential occupancy by members of a family who are related to each other by blood, adoption, or marriage, living together as a single housekeeping unit as distinguished from an apartment house, boarding house, commune or multi-family house.

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Section 26. "Supplemental Declaration" shall mean and refer to (i) any declaration of supplemental restrictions filed of record by Declarant, its successors or assigns, with respect to the Property, (ii) any supplemental declaration of annexation executed and filed of record by Declarant, its successors or assigns, bringing additional property within the scheme of The Declaration under the authority provided in the Declaration, and (iii) any supplemental declaration executed and filed of record by Declarant, its successors or assigns, purporting to do both of the foregoing. References herein (whether specific or general) to provisions set forth in "all (any) Supplemental Declarations" shall be deemed to relate to all or the respective Property covered by the relevant Supplemental Declaration.

Section 27. "Voting Power" means the total number of votes held by members (in a class of Members of the Association, or of Members other than Declarant, as the case may be) whose membership at the time the determination of voting power is made has not been suspended in accordance with the provisions of this Declaration or the Rules and Regulations. Voting Power shall be computed by including all such Members whether or not such Members are present in person or by proxy at a meeting.

**ARTICLE II
WILLOW POINTE HOMEOWNERS ASSOCIATION, INC.**

Section 1. Duties and Powers. In addition to the duties and powers enumerated in its Articles of Incorporation and Bylaws, or elsewhere provided for in The Declaration, and without limiting the generality hereof, the Association shall also discharge those functions necessary to the general maintenance of the Common Properties. The Board of Directors of the Association shall be empowered to oversee the activities of the Association and may take whatever lawful action that the Board, in its sole discretion, deems necessary to provide for the upkeep, development and aesthetic appearance of the Common Properties and Common Facilities and to enforce The Declaration for the common benefit of the Members of the Association. All rights of the Association herein and hereunder are vested in its Board of Directors unless specifically reserved to Declarant or a vote of the Members herein.

Section 2. Membership. Every person or entity who is a record Owner of any Lot, including Declarant, shall be a Member of the Association and be entitled to voting rights as herein provided. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of the land which is subject to assessment by the Association. Ownership of such land shall be the sole qualification for membership. Other lands may hereafter be annexed into the jurisdiction of the Association in the manner herein ascribed. If annexed, the Owners of Lots in each future section so annexed, as well as all Owners subject to the jurisdiction of the Association, shall be entitled to the use and benefit of all Common Properties that

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may become subject to the jurisdiction of the Association as a result of such annexation, and the Common Facilities thereon, and shall be entitled to the use and benefit of the maintenance fund hereinafter set forth, provided that each future section must be impressed with and subject to the Assessments imposed hereby, and further, such sections shall be made by recorded Supplemental Declaration subject to all of the terms of this initial Declaration (as then amended and/or modified as herein permitted) and to the jurisdiction of the Association. Such additional stages of development may be annexed in accordance with the provisions of Article XI. Upon a merger or consolidation of the Association with another association, the properties, rights and obligations of the other 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 and restrictions established by The Declaration, together with the covenants and restrictions applicable to the properties of the other merged association, as one scheme. No such merger or consolidation, however, shall effect any revocation, change, or addition to the covenants and restrictions established by The Declaration. All Lots in the Property are subject to the covenants, restrictions and other matters contained in The Declaration.

Section 3. Classes of Membership. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners of Assessable Tracts with the exception of the Declarant (unless and until its Class B Membership converts to Class A Membership as contemplated below), and each such Class A Member shall be entitled to one vote for each Lot owned by such person or entity. When more than one person holds an interest in a single Lot, all such persons shall be Members. The vote of such Lot shall be exercised as such co-owners among themselves determine, but in no event shall more than one vote be cast with respect to any one Lot. If the co-owners of a single Lot do not vote unanimously and in unison, no vote for that Lot shall be counted as there shall be no fractional vote.

Class B. Class B Members shall be the Declarant herein, as such term is defined in Article I, Section 12, who shall be entitled to five (5) votes in the Association for each Lot owned by it. Class B Membership shall cease and be converted to Class A Membership (and Declarant may thereafter cast one Class A vote for each Lot owned by it, regardless of whether Declarant pays any or its full share of Assessments) on the happening of the earliest to occur of the following two events (a or b):

- (a) when 75% of the Lots are deeded to homeowners; or
- (b) on the twentieth anniversary date of the date hereof;

At such time that additional Property is annexed into the Association, the Class B Membership of the Declarant, shall, if it had previously ceased due to one of the

