

DECLARATION OF COVENANTS, CONDITIONS, ASSESSMENTS, CHARGES,
SERVITUDES, LIENS, RESERVATIONS AND EASEMENTS (SINGLE FAMILY)

This Declaration of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations and Easements (herein called the "Declaration") is made as of the 6th day of February, 1996, by the Geaux Corporation, a Texas Corporation, (herein called "Declarant").

WITNESSETH

Whereas, Declarant is the owner of Lots 1-19, Block 1; Lots 1-10, Block 2; Lots 1-8, Block 3; Lots 1-15, Block 4; and Lots 1-34, Block 5; Acadia Place Addition, Unit 1, according to the plat thereof recorded in Cabinet C, Slide 148-A, of the Plat Records of Smith County, Texas; and,

Whereas, in order to enable Declarant to implement a general plan of development and accomplish the development of such lands as a planned unit residential development of high quality and standards in a consistent manner with continuity and to insure the creation of an architecturally harmonious subdivision, Declarant desires to subject the Property, as hereinafter defined, to the covenants, conditions, assessments, charges, servitudes, liens, reservations and easements hereinafter set forth (herein collectively called the "Covenants").

Now, therefore, Declarant hereby declares that the Property shall be held, sold and conveyed subject to the covenants.

ARTICLE I - DEFINITIONS

The following words, phrases or terms used in this Declaration shall have the following meanings:

A. "Architectural Control Committee" shall mean Jeff Brown and Jerry Fackrell or such other person or persons who shall be named to serve in conjunction with or as the successors to such persons by the Declarant; provided, however, that such change shall not be effective for purposes of these Covenants until a statement of such change has been duly recorded by the Declarant in the Real Property Records of Smith County, Texas. The Declarant shall have the right at any time to change the membership of the Architectural Control Committee at the sole discretion of said Declarant by the filing for record in the Real Property Records of Smith County, Texas, of a statement to such effect as provided herein.

B. "Assessable Property" shall mean each of the Lots.

C. "Assessment Lien" shall mean the lien created and imposed by Article VI.

D. "Covenants" shall mean the covenants, conditions, assessments, charges, servitudes, liens, reservations and easements set forth herein.

E. "Declarant" shall mean the Geaux Corporation, and any successor or assign of Declarant's rights and powers hereunder, but with respect to any such successor or assign (i) such successor or assign shall not be deemed to be a "Declarant" unless such successor or assign is designated as such pursuant to a written instrument signed by Declarant (which written instrument shall be filed of record in the Real Property Records of Smith County, Texas, designating that part of the Property to which it relates) and (ii) such successor or assign shall only have those rights and powers of Declarant that are specifically assigned to such successor or assign pursuant to such written instrument.

F. "Declaration" shall mean this Declaration of Covenants, Conditions, Assessments, Charges, Servitude, Liens, Reservations and Easements as amended or supplemented from time to time as herein provided.

G. "Deed" shall mean a deed or other instrument conveying the fee simple title to all or any portion of the Property, including but not limited to a Lot.

H. "Dwelling Unit" shall mean a building, and any portion thereof, situated on a lot designed and intended for use and occupancy as a residence by a single family.

I. "Lot" shall mean any lot shown upon the Plat of the Property filed for record in Cabinet C, Slide 148-A of the Plat Records of Smith County, Texas (as such plan may be amended from time to time), together with any lots which may, from time to time, result from the resubdivision, combination or division of any of such lots as may be shown upon a plat or plats of the Property of any part thereof hereafter filed for record in the Plat Records of Smith County, Texas.

J. "Maintenance Charges" shall mean any and all costs assessed pursuant to Article V.

K. "Owner" shall mean the person or persons, entity or entities, who own record fee simple title to a Lot. The term "owner" shall exclude any person or person, entity or entities, having an interest in a Lot or any such parcel merely as security for the performance of an obligation; the term "Owner" shall include Declarant if Declarant is a record owner of fee simply title to a Lot.

L. "Permanent Improvements" shall mean with respect to any Lot or any other portion or parcel of the Property, any and all improvements, structures and other materials and things located thereon (not including trees, berms, shrubs, hedges and fences), including such items as may only be located thereon temporarily.

M. "Plat" shall mean the plat of the Property presently on file in Cabinet C, Slide 148-A, of the Plat Records of Smith County, Texas, and any other plat or plats of all or any portion of the Property hereafter, filed for record in the Plat Records of Smith County, Texas, (as such plat or plats may be amended from time to time).

N. "Property" shall mean the real property shown and described on the Plat.

O. "Subdivision" shall mean the residential subdivision located in Smith County, Texas, and known as "Acadia Place" according to the Plat as the same may be amended or supplemented from time to time.

ARTICLE II - COVENANTS BINDING ON PROPERTY AND OWNERS

2.01 Property Bound. From and after the date of recordation of this Declaration, the Property and each Lot shall be subject to the Covenants, and the Covenants shall run with, be for the benefit of, bind and burden the Property.

2.02 Owners Bound. From and after the date of recordation of this Declaration, the Covenants shall be binding upon and inure to the benefit of each Owner and the heirs, executors, administrators, personal representatives, successors and assigns of each Owner, whether or not so provided or otherwise mentioned in the Deed. Each Owner, his heirs, executors, administrators, personal representatives, successors and assigns, expressly agrees to pay, and to be personally liable for, the assessments provided for hereunder, and to be bound by all the Covenants herein set forth.

ARTICLE III - ARCHITECTURAL CONTROL

3.01 Reservation of Architectural Control. The Declarant, desiring to provide for the preservation of the values and amenities in and upon the Property and to subject the Property to the reservation of architectural control hereinafter expressed for the purpose of implementing a general plan of development for the Property to insure the creation of a high quality, architecturally-harmonious subdivision, such general plan of development and reservation of architectural control is for the benefit of the Property and each Owner of any part thereof, as well as for the benefit of the Declarant as developer of the Property, hereby reserves the right and all rights to approve or disapprove as to:

(a) compliance with any specific restrictions imposed by Declarant the Architectural Control Committee, or anyone acting on behalf of either the Declarant or the Architectural Control Committee, with respect to the Property, and/or any part thereof; and,

(b) harmony of external design, location and landscaping in relation to surrounding structures and topography which are now or hereafter may be existing or proposed, including, but not by way of limitation, architectural designs, setbacks,

landscaping, color schemes and construction materials, any and all subdivisions, resubdivisions (where permitted), exterior additions to, changes in, construction, alteration or excavation of the Property or any part thereof (including, but not limited to the trees located thereon which exceed four inches in diameter) and any and all structures or improvements located thereon, either permanent or temporary, including without limitation, additions to, changes in, or alterations of grade, landscaping, roadways, walkways, signs, exterior lights, walls, fences, buildings, or other structures or improvements located thereon which any person or entity, including without limitation, governmental and quasi-governmental subdivisions or agencies, seeks to commence, erect, place or maintains upon the Property, or any part thereof.

All requests for approval of the above shall be submitted in writing to the Architectural Control Committee at 16758 CR 178, Tyler, Texas, 75703, or at such other address as may from time to time be designated of record in the Real Property Records of Smith County, Texas, and shall be accompanied by complete and specific plans and specifications showing the nature, kind, shape, height, materials, color, location and other material attributes of the structure, improvement, addition, change, alteration or excavation of the Property, or any part thereof. All such requests for approval shall also be accompanied by the payment, in tender acceptable to the Architectural Control Committee, of an Application Fee as shall be set by the Architectural Control Committee from time to time in its sole discretion. The Architectural Control Committee shall have no duty to exercise the power of approval or disapproval hereby reserved.

With respect to the Property, or any part thereof, and all Lots, without assigning, transferring or conveying any interest in the Property, or any part thereof, or any of the Lots, Declarant has and does herein and hereby delegate the power of approval and disapproval herein reserved to the Architectural Control Committee. This delegation of the power of approval and disapproval may be rescinded at any time by the Declarant by the filing of an instrument so stating such act of rescission in the Real Property Records of Smith County, Texas. As long as this delegation of the power of approval and disapproval is in effect, any person or entity owning any interest in the Property, or any part thereof, of any Lot, or any part thereof (where permitted), shall be required to deal with the Architectural Control Committee, and not the Declarant, and the Declarant shall have no responsibility or liability of any nature whatsoever for the actions of the Architectural Control Committee.

3.02 Prior Approval. No building, fence, wall, sign, exterior light, or other structure or apparatus, either permanent or temporary, shall be commenced, erected, placed, or maintained upon any Lot constituting a portion of the Property, nor shall any exterior addition thereto, change therein or alteration, excavation, subdivision, or resubdivision thereof, including without limitation changes in or alteration of grade, landscaping, roadways, and walkways, be made until the plans and specifications showing the nature, kind, shape, height, materials, color, location, and other material attributes of the same shall

have been submitted in writing to and approved in writing by the Architectural Control Committee as to (i) compliance with the Covenants herein contained, and (ii) harmony of external design and location in relation to surrounding structures and topography which are now or hereafter existing or proposed, including, but not by way of limitation, as to architectural designs, setbacks, landscaping, color schemes and construction materials. The Architectural Control Committee shall have the right to promulgate a form for submission of such items to the Architectural Control Committee, and upon such promulgation, all Owners shall be required to use the form for all such submissions. In the event the Architectural Control Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been properly submitted to it, approval will not be required, and this Article will be deemed to have been fully complied with. Non-exercise of the powers hereby reserved by Declarant in one or more instances shall not be deemed to constitute a waiver of the right to exercise such power in other or different instances. Likewise, approval of any one of plans and specifications shall not be deemed to constitute approval of any other or different plans and specifications. In the absence of gross negligence or willful misconduct attributable to the architectural Control Committee, such Architectural Control Committee shall not be liable for the improper enforcement or failure to exercise any of the powers reserved and delegated unto said Architectural Control Committee pursuant to this Article. In no event shall any approval obtained from such Architectural Control Committee pursuant to the terms of this Article be deemed to be a representation of any nature regarding the structural integrity, safety, fitness for a particular purpose, or engineering soundness of the structure or other item for which such approval was obtained, nor shall such approval represent in any manner compliance with any building or safety codes, ordinances, regulations or statutes; nor shall such approval be construed as a representation or warranty as to any structure or other item which is the subject of such approval.

ARTICLE IV - GENERAL RESTRICTIONS

4.01 Single-Family Residential Purposes. All Lots in the Subdivision and all Permanent Improvements thereon shall be used only for single-family residential purposes. No Lot in the Subdivision shall be used for any commercial, business or professional purposes, as determined solely by the Architectural Control Committee whose determination shall not be subject to challenge, review or appeal, judicially or otherwise. Each Owner by accepting a Deed to a Lot hereby waives any and all rights to challenge, review or appeal such determination by the Architectural Control Committee.

4.02 Types of Structures. Unless otherwise approved by the Architectural Control Committee, no Permanent Improvements shall be erected, constructed, altered or permitted to remain on any Lot in the Subdivision other than on (1) detached single-family, residential dwelling not to exceed two (2) stories in height. Each such Dwelling Unit shall have a private garage as provided in Section 4.03 below. No used or previously constructed building shall be moved onto any Lot. No structure of a temporary outbuilding shall be used on any Lot at any time as a resident, either temporarily or permanently.

4.03 Garage Construction. All garages constructed on any Lot in the Subdivision shall be a part of the Dwelling Unit or attached thereto by a breezeway. All garages shall be fully enclosed and have spaces for at least two vehicles. Garages may not be closed in and occupied or used as part of the residential dwelling for other than storage and parking vehicles without the express written consent of the Architectural Control Committee, which consent may be withheld for any reason.

4.04 Minimum Dwelling Size

A. The living area of each Dwelling Unit, as determined in the sole opinion of the Architectural Control Committee, on a Lot located in the Subdivision shall not be less than 1,550 square feet of floor space.

B. The said minimum square footage requirements for Dwelling Units in the Subdivision shall be exclusive of porches, patios, breezeways, terraces, garages (whether detached or attached), cabanas and other attached or detached outbuildings.

C. Declarant reserves the right, at any time, to unilaterally amend this Declaration so as to increase the minimum square footage requirements for Dwelling Units on any and all Lots then owned by the Declarant, but such change shall not affect Lots previously conveyed by the Declarant.

4.05 Setbacks. The building setback lines for the Subdivision are set forth and established on the Plat, which building setback lines shall control the location of all Permanent Improvements. The Architectural Control Committee may, unilaterally without amendment to this Declaration, permit a change in the setback line on any Lot in said Subdivision which in the sole opinion of the Architectural Control Committee it is determined to be advisable to permit such change. Notwithstanding anything contained herein to the contrary, the overhang of a roof on a Dwelling Unit may extend over the building setback line by no more than one (1) foot. The slab for each Dwelling Unit must not extend past or over any building setback line.

4.06 Retaining Walls, Fences, Hedges and Other Screening Material. Except as to Lot , Block , of the Subdivision as shown on the Plat, no retaining wall, fence, planter, hedge or other screening material in excess of two (2) feet high shall be erected or maintained nearer to the front street lot line than the front street building setback line, nor on corner lots nearer to the side street lot line than the front street building setback line parallel to the side street. No rear or side fence, wall, hedge or other screening material shall be more than six (6) feet high. The Architectural Control Committee shall have the power to grant a variance for any Lot or Lots from the restrictions contained in this Section 4.06 by the filing of such variance in the Real Property Records of Smith County, Texas. Granting of a variance to any Lot or Lots shall not in any manner be deemed to have granted or to have the right to be granted a similar variance to any other Lot.

4.07 Driveways. As to any Lot, all driveways shall be entirely of concrete (except, however, some other materials, excluding asphalt, may be used without the prior written consent of the Architectural Control Committee) and shall be paved before any Dwelling Unit may be occupied. No driveway or other roadway may be constructed on any Lot in such a manner as to furnish access to any adjoining Lots or other property without the prior written consent of the Architectural Control Committee.

4.08 Walks. Walks from the street curb to all Dwelling Units in the Subdivision shall have a minimum width of four (4) feet and shall be constructed entirely of concrete (except, however, some other material, excluding asphalt, may be used without the prior written consent of the Architectural Control Committee.

4.09 Construction Materials. All materials used in the construction of the exterior of any Dwelling Unit or other structure must be approved in writing by the Architectural Control Committee before commencement of construction. Any exposed exterior walls, exclusive of doors, windows and gable areas, shall not be less than sixty (60.0%) per cent brick, brick veneer, stone, stone veneer or masonry construction with all other exterior construction materials to be of such grade and quality as shall be approved in writing by the Architectural Control Committee. All solar collectors and panels to be incorporated into the design or construction of any Dwelling Unit must receive specific written approval from the Architectural Control Committee prior to commencement of construction. Only new construction materials shall be used (except for brick if and as approved by the Architectural Control Committee on a case-by-case basis). No concrete blocks shall be used in construction unless the blocks are completely covered up by the final exterior finish material. All Dwelling Units shall be built on a slab, solid concrete beam foundation, or a pier and beam foundation approved by the Architectural Control Committee. No wood shingles may be utilized in connection with the construction of a Dwelling Unit.

4.10 Drilling Activity. At no time shall the drilling, usage or operation of any water well or any well or excavation for any oil, gas or other minerals be permitted on any Lot.

4.11 Air Conditioners and Heaters. No window or wall-type air conditioner or heater shall be permitted to be used, erected, placed or maintained on or in any Dwelling Unit.

4.12 Utilities. Each Dwelling Unit shall be required to be connected to the water distribution system and sanitary sewer collection system in the Subdivision as soon as such utilities are available in the easements adjacent to or within the respective Lot upon which the Dwelling Unit is located. Individual underground electrical service drops must be installed to each Dwelling Unit. Each Owner shall comply with the requirements of the applicable utility company regarding such underground service installations, including without limitation the payment of any lawful charges which might be incurred for the installation of the underground service as set forth in applicable utility company rules,

regulations and terms and conditions of service, as the same may be amended from time to time without notice.

4.13 Antennas. No exterior television, radio, or other antenna of any type not any radio or television satellite dish or satellite dish larger than 18" in diameter shall be placed, allowed or maintained upon any lot or structure thereon.

4.14 On-Street Parking. On-street parking shall be and is hereby restricted to approved deliveries, pick-up or short-time guests and invitees, and all on-street parking shall be subject to such reasonable rules and regulations as shall be adopted from time to time by the Architectural Control Committee. At no time shall any Owner, or any relative of any Owner, or anyone residing in a Dwelling Unit or otherwise occupying a Lot, or any part thereof, either permanently or temporarily, or any guest or invitee of any Owner, resident or occupant of any Lot, or any part thereof, park or allow to be parked for any reason on any street in the Subdivision any motor home, recreational vehicle, bus, tractor, trailer, bob-tail truck, van in excess of three-quarters (3/4) of a ton, or truck of any type in excess of three-quarters (3/4) of a ton. The Architectural Control Committee shall have the power to grant a variance for any Lot or Lots from the restrictions contained in this section 4.14 by the filing of such variance in the Real Property Records of Smith County, Texas; provided, however, that the granting of one variance shall not in any manner be deemed an approval of or right to obtain the same or a similar variance for any other person or use whatsoever.

4.15 Storage. No exterior storage of any items of any kind shall be permitted, except with prior written approval and authorization of the Architectural Control Committee. An such storage as is approved and authorized shall be in areas attractively screened or concealed (subject to all required approvals as to architectural control) from view from neighboring property, Dwelling Units, pathways and streets. This provision shall apply, without limitation, to woodpiles, camping trailers, boat trailers, travel trailers, boats, recreational vehicles, motorcycles, all terrain vehicles and unmounted pick-up camper units. Also, without limitation, no boat, recreational vehicle, motorcycle, all terrain vehicle, trailer, automobile, truck or other vehicle of any type whatsoever, regardless of ownership, age, condition, type or appearance, shall remain on any Lot in any manner which could be construed as being stored, neglected, abandoned or otherwise not in frequent use, except pursuant to written approval and authorization of the Architectural Control Committee or unless stored in a garage.

4.16 Garbage. No rubbish, garbage, or trash shall be placed or be allowed to remain at the exterior of any Dwelling Unit or other structure on any Lot, except in containers meeting the specifications of the Declarant or Architectural Control Committee. The placement, maintenance, and appearance of all such containers shall be subject to reasonable rules and regulations of the Architectural Control Committee. The placement of all such containers shall be in areas attractively screened or concealed (subject to all required approvals as to architectural control) from view from neighboring property,

Dwelling Units, pathways and streets. Each Owner is responsible to provide that all rubbish, garbage and trash shall be regularly removed from said Owner's Lot and rubbish, garbage and trash shall not be allowed to accumulate thereon, including any time period when any construction is in progress on any Lot.

4.17 Outside Lighting. No outside lighting shall be placed, allowed or maintained any where on any Lot without prior written approval and authorization of the Architectural Control Committee.

4.18 Animals. No animals, reptiles, fish or birds of any kind shall be raised, bred or kept on any Lot except pursuant to prior written approval of and in accordance with any rules and regulations promulgated by the Architectural Control Committee, provided, however, that dogs, cats, birds, or fish may be kept thereon as household pets so long as such pets are not, or do not become, a nuisance, threat, or otherwise objectionable to the other Owners.

4.19 Re-subdivision. No Lot shall be further subdivided and no portion less than all of any such Lot, or any easement or other interest therein, shall be conveyed by any Owner without the prior written authorization and approval of the Declarant, its successors or assigns.

4.20 Utility and Service Lines. No gas, electric, power, telephone, water, sewer, cable television or other utility or service lines of any nature or kind shall be placed, allowed or maintained upon or above the ground on any Lot, except to the extent, if any, underground placement thereof may be prohibited by law or would prevent the subject line from being functional. The foregoing shall not prohibit service pedestals and above ground switch cabinets and transformers where required.

4.21 Burning and Incinerators. No open fires shall be permitted on any Lot at any time and no incinerators or like equipment shall be placed, allowed or maintained upon any Lot. The foregoing shall not be deemed to preclude the use, in customary fashion, of outdoor residential barbecues or grills.

4.22 Signs. No exterior signs or advertisements of any kind may be placed, allowed or maintained on any Lot without prior approval and authorization of the Architectural Control Committee, except that mailboxes to be constructed of brick or other approved material, residential nameplates, "for sale" signs not to exceed five (5) square feet in size, and signs designating the contractor of the Dwelling Unit upon such Lot may be placed and maintained in conformity with such common specifications, including without limitation, reasonable restrictions as to size, as may be adopted from time to time by the Architectural Control Committee. Notwithstanding anything to contrary set forth above, these restrictions do not prohibit any Owner from erecting temporarily a sign not to exceed five (5) square feet related to political, civic, educational or religious activities.

4.23 Septic Tanks and Sewage Disposal. No septic tank or other means of sewage disposal may be installed on any Lot. No outside toilets of any kind are permitted, except during the period of construction of a Dwelling Unit during which time chemically treated outside toilets shall be maintained in a manner subject to approval of the Architectural Control Committee; and no installation of any type of device for disposal of sewage shall be allowed which would result in raw or untreated or unsanitary sewage being carried into any body of water or water source.

4.24 Firearms and Weapons. No lot or any other portion of the Property shall be used or permitted for hunting or for the discharge of any pistol, rifle, shotgun, or any other firearm, r any bow and arrow or any other device capable of killing or injury.

4.25 Diseases and Insects. No Owner shall permit any thing or condition to exist upon any Lot which shall in the sole opinion of the Architectural Control Committee induce, breed or harbor plant disease or noxious insects.

4.26 Sidewalk Encroachments. No tree, shrub or plant of an kind on any Lot shall be allowed to overhang or otherwise encroach upon any sidewalk or any other pedestrian way from ground level to a height of seven (7) feet without the prior written approval and authorization of the Architectural Control Committee.

4.27 Machinery, Fixtures and Equipment. No machinery, fixtures or equipment of any type, including without limitation, air conditioning or refrigeration equipment and clothes lines, shall be placed, allowed or maintained upon the ground on any Lot, except with prior written approval and authorization of the Architectural Control Committee (subject to all required approvals as to architectural control), and no such machinery, fixtures or equipment shall be placed, allowed, or maintained anywhere other than the ground (such as the roof) except with prior written approval and authorization of the Architectural Control Committee. If allowed by the Architectural Control Committee, such machinery, fixtures or equipment shall be screened or concealed (subject to all required approvals as to architectural control) in such manner that the screening or concealment thereof appears, as determined in the sole discretion of the Architectural Control Committee, to be part of the integrated, architectural design of the building and does not have the appearance of a separate piece or pieces of machinery, fixtures or equipment.

4.28 Violation of Statutes, Ordinances and Regulations. No Lot shall be maintained or utilized in such manner as to violate any applicable statue, ordinance or regulation of the United States of America, the State of Texas, the County of Smith, the City of Tyler, or any other governmental or quasi-governmental agency or subdivision having jurisdiction over the Property.

4.29 Violation of Rules or of Covenants. No Lot shall be maintained or utilized in violation of this Declaration or of the rules and regulations of the Declarant or the Architectural Control Committee, or of the Covenants.

ARTICLE V - IMPROPER MAINTENANCE BY OWNER

5.01 Improper Maintenance. In the event any portion of the Property, any Dwelling Unit thereon, or any Permanent Improvements thereon, specifically including any perimeter wall within the easement immediately adjacent to or actually upon the respective Lot of an Owner, is in the sole judgment of the Architectural Control Committee so maintained by the Owner thereof (i) as to present a public or private nuisance, (ii) as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Property or any adjacent land owned by Declarant, or its successors or assigns, not presently included in the Property but which is substantially affected thereby or related thereto, or (iii) as to not in any manner comply with and of these Covenants, the Architectural Control Committee may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto deliver notice thereof to the offending Owner that unless corrective action is taken within ten (10) days, the Architectural Control Committee will cause such action to be taken at such Owner's cost, including entry upon the Owner's Lot, if necessary, and if such can be accomplished without a breach of the peace, and any such entry by the Architectural Control Committee or anyone at their direction should not be deemed a trespass and neither the Declarant, the Architectural Control Committee nor anyone else entering upon any Lot shall be subject to any liability therefor. If after the expiration of said ten (10) day period of time, the requisite corrective action has not been taken, the Architectural Control Committee shall be and is hereby authorized and empowered to cause such action to be taken and all costs thereof and associated therewith, including but not limited to the cost of collection, court costs and reasonable attorneys' fees (such costs being herein collectively called the "Maintenance Charges"), together with interest accruing thereon from the date or dates of occurrence of such costs at the maximum rate of interest which may be charged under applicable law (including the laws of the United States of America) from such date(s) until paid (or at such a lesser rate as may be determined by the Architectural Control Committee in its sole discretion on a case-by-case basis from time to time), shall be assessed against the Lot and the Dwelling Unit of the offending Owner. The Maintenance Charges, together with all interest accruing thereon, shall be secured by the Assessment Lien as provided in Article VI hereof. Written notice of such assessment shall be delivered to the offending Owner which notice shall specify the amount of such Maintenance Charges and shall demand payment thereof within thirty (30) days after the date of said notice.

5.02 Subdivision Wall. By accepting a Deed to any of the Property or any Lot, each of every owner (i) agrees to and shall pay such Owner's pro rata share of the cost to maintain and repair the fence to be constructed by Declarant and to be constructed by Declarant and to be located near and along the northern most boundary line of Lot 1, Block 2, Lots 1, 2, 3, 4, 5, 6, and 7, Block 2, Lot 1, Block 5, near and along the northern most boundary line of Lots 20, 21 and 22, Block 5, and the front entrances of the Subdivision, said wall being hereinafter referred to as the "Subdivision Wall," and (ii) agrees that the construction, maintenance, and repair of the Subdivision Wall will enhance the beauty and value of the Subdivision and the Owner's Lot. The costs for

maintenance and repair of the Subdivision Wall shall hereinafter be collectively called the "Subdivision Wall Charges." For purposes of determining each Owner's pro rata share of the Subdivision Wall Charges, each Lot will be assessed one seventy-ninth (1/79) of the Subdivision Wall Charges. The Architectural Control Committee, in its sole discretion, shall have the right to determine how the Subdivision Wall will be maintained and repaired. At such intervals as shall be determined by the Architectural Control Committee, a statement will be sent to each Owner for the Owner's pro rata share of the Subdivision Wall Charges, and each Owner agrees to pay their pro rata share of the Subdivision Wall Charges within thirty (30) days of the date shown on the statement. If the Owner's pro rata share is not paid within said thirty (30) day period, the Architectural Control Committee shall be and is hereby authorized and empowered to take any and all such action as determined in the sole discretion of the Architectural Control Committee to enforce the collection of the Owner's unpaid pro rata share of the Subdivision Wall Charges, together with court costs, reasonable attorneys' fees and interest accruing thereon from the due date at the maximum rate of interest which may be charged under applicable law (including the laws of the United States of America) from such due date until paid (or at such a lesser rate as may be determined by the Architectural Control Committee in its sole discretion on a case by case basis from time to time). The Subdivision Wall Charges, together with all interest accruing thereon, shall be secured by the Assessment Lien as provided in Article VI hereof.

ARTICLE VI - IMPOSITION OF LIEN; OWNERS' AGREEMENT

6.01 Owners' Agreement. Each Owner, owning a portion of the Property or of any Lot, for said Owner, and the Owner's heirs, executors, administrators, personal representatives, successors, and assigns, covenants and agrees:

A. That the Owner acquires the Owner's Lot subject to the Maintenance Charges, the Subdivision Wall Charges, and the Assessment Lien, as they may exist from time to time; and

B. That by accepting a Deed to the Owner's Lot, the owner is, shall be, and remain, personally liable for any and all Maintenance Charge and Subdivision Wall Charges assessed against the said Owner's Lot while the said Owner is (or was) the Owner thereof, regardless of whether such covenants or agreements are expressed in such Deed and regardless of whether the said Owner signed the Deed; and

C. That by accepting a Deed to the Owner's Lot and to secure the Owner's performance hereunder, the Owner conveys the Property or Lot, and all portions thereof, to the Architectural Control Committee in Trust, with a power of sale, he warrants and agrees to defend the title to the said Property or Lot, and all portions thereof. If the Owner pays all of the Maintenance Charges or Subdivision Wall Charges imposed against the Owner's Property or Lot in accordance herewith, this conveyance, in trust shall have no further effect. If the Owner fails to pay any of the Maintenance Charges or Subdivision Wall Charges imposed against the Owner's Property or Lot, the Architectural Control

Committee shall give written notice of default to the Owner. If the Owner fails to make appropriate payment within thirty (30) days following delivery of the written notice of default by the Architectural Control Committee, the Architectural Control Committee shall appoint a trustee in writing and recorded in the Land Records of Smith County, Texas, and such trustee shall have the right to foreclose nonjudicially upon the Assessment Lien granted herein in accordance with and upon compliance with the provisions of Section 51.002 of the Texas Property Code, as the same may be amended or supplemented from time to time.

ARTICLE VII - ENFORCEMENT OF DECLARATION AND OF/MAINTENANCE CHARGES AND OF ASSESSMENT LIEN

7.01 Enforcement By Declarant or Architectural Control Committee. The Declarant or the Architectural Control Committee, acting either jointly or independently, shall have the exclusive right, jointly or independently, to enforce the provisions of this Declaration. However, if both the Declarant and the Architectural Control Committee shall fail or refuse to enforce this Declaration, or any part hereof, for an unreasonable period of time after written request from an Owner to do so, then any Owner may enforce this Declaration at the said Owner's sole cost and expense by any appropriate action, whether at law or in equity, and neither the Declarant nor the Architectural Control Committee shall have any liability for failing or refusing to enforce this Declaration to any Owner or any other property or entity.

7.02 Enforcement Remedies. If the Owner of any Lot constituting a portion of the Property fails to pay any Maintenance Charges or Subdivision Wall Charges assessed, or to pay any interest accrued on any Maintenance Charges, Subdivision Wall Charges, and any and all costs (including court costs and attorneys' fees) incurred by either the Declarant or the Architectural Control Committee, or both, in collecting same, the Declarant and/or the Architectural Control Committee, as applicable, shall have the right to enforce the payment of the Maintenance Charges and the Subdivision Wall Charges, and all interest accrued thereon the costs incurred by either the Declarant or the Architectural Control Committee, or both, in collecting same, and/or enforce the Assessment Lien by taking either or both of the following actions, concurrently or separately (and, by exercising either of the remedies hereinafter set forth, the Declarant and the Architectural Control Committee do not prejudice there exercise of any other remedy):

- (a) Bring an action at law and recover judgment against the Owner personally obligated to pay the Maintenance Charges, Subdivision Greenbelt Charges, or Subdivision Wall Charges; or
- (b) Enforce the Assessment Lien against the Lot by any means available at law or in equity, including without limitation a nonjudicial foreclosure sale of the Lot, such sale to be conducted in the manner set forth in Section 51.002 of the Texas Property Code, as the same may be amended or supplemented from time to time. The Declarant or any other Owner may be the purchaser at any such foreclosure sale.

7.03 Subordination of the Assessment Lien to First Mortgage or Deed of Trust. The Assessment Lien provided for herein shall be subordinate to any first mortgage lien. Sale or transfer of any Lot shall not affect the Assessment Lien, provided, however, that if the sale or transfer is pursuant to foreclosure of any such superior mortgage lien or deed of trust, the purchaser at the mortgage lien foreclosure or deed of trust sale, shall take the Lot free of the Assessment Lien for all Maintenance Charges that have accrued up to the date of issuance of a sheriff's or trustee's deed. If the transfer is effectuated by deed in lieu of foreclosure, the Assessment lien immediately shall become and remain superior to any and all other charges, liens, or encumbrances (except lien for taxes or other public charges which by applicable law are expressly made superior and except to the extent stated herein with respect to any subsequent first lien financing) and such mortgage or deed of trust foreclosure sale purchaser or grantee shall take the Lot or Property subject to all Maintenance Charges and the Assessment Lien therefor accruing prior to the date of the deed given in lieu of foreclosure.

ARTICLE VII - RIGHTS AND POWERS

8.01 Enforcement. The Declarant and the Architectural Control Committee, jointly or severally, shall have the right to enforce the Covenants set forth in this Declaration and/or any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, or liens provided for in any contract, deed, declaration, or other instrument affecting all or any part or parts of the Property or any Lot. Any such instrument shall have been executed pursuant to, or subject to, the provisions, of this Declaration, or otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Declarant and/or the Architectural Control Committee; provided, however, that any such instrument that is recorded subsequent to recordation of this Declaration shall at all times be subordinate and inferior to this Declaration whether or not so provided in such instrument.

8.02 Right to Inspect. The Declarant and the Architectural Control Committee, jointly or severally, shall have the right to enter upon all Lots for the purpose of inspecting whether or not the Owner thereof is in compliance with the Declaration and Covenants. If during the course of construction of a Dwelling Unit upon a Lot, the Declarant or the Architectural Control Committee, jointly or severally, determines in its/their sole discretion that there is a violation of the Covenants, the Declarant or the Architectural Control Committee, as appropriate, may order a discontinuance of the construction of the Dwelling Unit until such time as corrective measures have been taken to assure full compliance with the Covenants, and an Owner's failure to immediately discontinue or cause the discontinuance of construction of the Dwelling Unit, upon demand by Declarant or the Architectural Control Committee, shall constitute a further violation of this Declaration by that Owner.

ARTICLE IX - RESERVATIONS OF DECLARANT

The following reservations are hereby made by Declarant:

A. The utility easements shown on any Plat are dedicated with the reservation that such utility easements are for the use and benefit of any public utility operating in Smith County, Texas, as well as for the benefit of Declarant to allow for the construction, repair, maintenance and operation of a system or systems of electric light and power, telephone lines, television cable lines, security, gas, water, sanitary sewers, storm and sewers and any other utility or service which Declarant may find necessary or proper.

B. Declarant reserves the right from time to time to make changes in the location, shape, and size of, and additions to, the easements described in Section IX (A), above, for the purpose of more efficiently or desirably installing utilities thereon.

C. The title conveyed to Lot or any part of the Property shall not be held or construed to include the title to the water, gas, electricity, telephone, storm sewers, or sanitary sewer lines, poles, pipes, conduits, cable television lines or other appurtenances or facilities constructed by Declarant or public utility companies upon, under, along, across or through such utility easements; and the right (but no obligation) to construct, maintain, repair and operate such systems, utilities, appurtenances and facilities is reserved to Declarant, its successors and assigns.

D. The right to sell or lease the lines, utilities, appurtenances and other facilities described in Section IX (C), above, to any municipality, governmental agency (including any water control or utility district created under Article XVI, Section 59 of the Texas Constitution covering the Property as well as other lands), public service corporation or other party is hereby expressly reserved to Declarant.

E. Neither Declarant nor its successors or assigns shall be liable for any damage done by any of such parties or any of their agents or employees to shrubbery, trees, flowers or other property of any Owner situated on the Lots covered by the above described utility easements and necessitated by the use of those easements for their intended purpose.

F. The right to enter upon any Lot or Lots during installation of streets for the purpose of performing street excavation, construction, and paving is hereby reserved to Declarant, its successors or assigns, and neither Declarant, its successors or assigns, shall be liable for any damage done by any such parties or any of their agents or employees to shrubbery, trees, flowers or other property of the Owner which is necessitated by such street construction.

ARTICLE X - TERMS; AMENDMENTS; TERMINATIONS

10.1 Term; Method of Termination. This Declaration and the Covenants shall be effective upon the date of recordation hereof and, as may be amended from time to time, shall continue in full force and effect to and including December 31, 2022. From and after December 31, 2022, this Declaration, as it may have been amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the then Owners of seventy-five percent (75.0%) of the Lots (each Owner having one vote per Lot owned) casting their votes for termination at a meeting held for such purpose within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension.

10.2 Amendments. Until the Declarant has initially sold all of the Lots in the Subdivision, such sales being evidenced by the recording of a deed from the Declarant to the initial buyer of a Lot, this Declaration may be unilaterally amended or changed at any time by the Declarant for any reason or purpose as determined at the sole discretion of the Declarant. Thereafter, this Declaration may be amended or changed in whole or in part at any time only by the affirmative vote of the then Owners of seventy-five percent (75.0%) of the Lots (each Owner having one vote per Lot owned) casting their votes to amend or change this Declaration at a special meeting called pursuant to Section 10.03. Notwithstanding the foregoing, Declarant, unilaterally without the joinder or vote of any Owner, shall have the right at any time to amend this Declaration as specifically authorized in Section 4.04(C) to increase square footage requirements of Dwelling Units.

10.03 Election Procedures. The affirmative votes required under Sections 10.01 and 10.02, hereof, shall be obtained and evidenced by the requisite vote by the Owners (including Declarant, if applicable) present at a meeting of Owners duly called by at least five (5) Owners or by the Declarant pursuant to notice to all of the Owners on or prior to ten (10) days before the date of the meeting at which meeting the requisite percentage of Owners, in person or by proxy, vote to so amend or terminate this Declaration (and the Covenants herein. The notice of the meeting must set forth the proposal as to amendment of this Declaration (and/or the requisite Covenants contained herein) and such affirmative vote of the requisite percentage of Owners must be evidenced by minutes of the meeting duly certified by the Owners who called the meeting or the Declarant. In any event, a copy of the minutes shall be delivered to the Declarant prior to any amendment or change becoming effective.

10.04 Recording of Amendments. Upon the amendment or change of this Declaration (and/or the Covenants contained herein) as herein provided, and upon the other conditions set forth in Section 10.01 or 10.02 (as the case may be) and Section 10.03 of this Article being satisfied, then each amendment shall be executed by the (i) the Declarant, its successors or assigns, or (ii) the Owners who voted in favor of the amendment or change, placed in recordable form, and filed of record in the Real Property Records of

Smith County, Texas, accompanied by a statement that the requisite percentage of Owners have voted to make such amendment to this Declaration.

10.05 Effect. Upon the filing of an amendment or change in accordance with Section 10.04, this Declaration and the Covenants, as amended, shall remain in full force and effect.

10.06 Other Right of Amendment. Anything in this Article to the contrary notwithstanding, Declarant reserves the right to amend all or any part of this Declaration to such an extent and with such language as may be required by any federal, state, or local agency which requires such an amendment as a condition precedent to such agency's approval of this Declaration, or by any lending institution as a condition precedent to lending funds upon the security of the Property or any portion thereon. Any such amendment shall be effected by the recordation, by Declarant, its successors or assigns, of a Certificate of Amendment signed by Declarant, its successors or assigns, with proper signatures acknowledged, specifying the federal, state, or local governmental agency or the federally chartered lending institution requiring the amendment and setting forth the amendatory language required by such agency or institution. Recordation of such a Certificate shall be deemed conclusive proof of the agency's or institution's requirement for such an amendment, and such Certificate, when recorded, shall be binding upon the Property, or the portion thereof so affected, and all persons or Owners having an interest in the same. Except as provided in this Section 10.06, Declarant shall not have any right to amend this Declaration otherwise than in accordance with and pursuant to the provisions of Section 10.02 hereof.

ARTICLE XI - RESERVATION OF RIGHT TO RESUBDIVIDE

Subject to the approval of any and all appropriate governmental agencies having jurisdiction, Declarant hereby reserves the right at any time while it is the Owner thereof to subdivide or resubdivide, as the case may be, and/or plat or replay, as the case may be, all or any portion of any Lot or Lots then owned by Declarant without the consent of any Owner.

ARTICLE XII - MISCELLANEOUS

12.01 Interpretation of the Covenants. Except for judicial construction, the Architectural Control Committee shall have the exclusive right and power to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Architectural Control Committee's construction or interpretation of the provisions hereof shall be final, conclusive, and binding as to all persons and property benefited or bound by this Declaration, the Covenants and provisions hereof.

12.02 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other, remaining provisions hereof, which remaining provisions shall be and remain in full force and effect.

12.03 Rule Against Perpetuities. If any interest purported to be created by this Declaration is challenged under the Rule Against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" from computing the period of perpetuities shall be (a) those which would be used in determining the validity of the challenged interest, plus (b) if applicable, those of the issue of Kristi Winfrey who are living at the time the period of perpetuities starts to run on the challenged interest.

12.04 Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate, or modify any of the provisions of this Declaration.

12.05 Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Declarant or the Architectural Control Committee, as applicable, shall have the right to adopt rules and regulations with respect to all other aspects of the rights, activities and duties of the Declaration or the Architectural Control Committee, as applicable, provided said rules and regulations are not inconsistent with the provisions of this Declaration.

12.06 Disclaimer of Representation. Anything to the contrary in this Declaration notwithstanding and except as otherwise may be expressly set forth on a recorded plat or other instrument recorded in the Real Property Records of Smith County, Texas, neither the Declarant nor the Architectural Control Committee makes any warranties or representations whatsoever that the plans presently envisioned for the complete development of the Property can or will be carried out.

12.07 Limitation of Liability. In the absence of gross negligence or willful misconduct attributable to (i) Declarant, or its successors or assigns, or (ii) the Architectural Control Committee (and any and all members thereof), neither Declarant nor its successors or assigns, nor the Architectural Control Committee (nor any member thereof) shall have any liability of any nature whatsoever arising out of or in any manner related to the performance or nonperformance of any manner related to the performance or nonperformance of any of the rights and powers reserved unto Declarant or the Architectural Control Committee, or their respect heirs, personal representatives, successors or assigns, pursuant to this Declaration.

12.08 Successors and Assigns. Any reference in this Declaration to Declarant shall include Declarant's successors and assigns.

12.09 Gender and Number. Whenever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

12.10 Captions and Title. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify, or otherwise affect any of the provisions hereof, or to be used in determining the intent or context thereof.

12.11 Notices. Any notice required or permitted to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, delivery shall be deemed to have been made twenty-four (24) hours after a copy of the notice has been deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed to each such person at the address given by such person to the party sending the notice or to the address of the Dwelling Unit of such person if no address has been given. Such address may be changed from time to time by notice in writing.

12.12 Prior Recorded Instruments. This Declaration and all of the provisions hereof are expressly subject to all prior recorded documents affecting the Property.

12.13 Enforcement of the Covenants. Notwithstanding anything to the contrary herein, in the event of any violation or attempted violation of any of the provisions hereof, including any of the Covenants, enforcement shall be authorized by any proceeding at law or in equity against any person or persons violating or attempting to violate any of such provisions, including proceedings to restrain or prevent such violation or attempted violation by injunction, whether prohibitive in nature or mandatory in commanding compliance with such provisions; and it shall not be a prerequisite to the granting of any such injunction to show inadequacy of legal remedy or irreparable harm. Likewise, any person entitled to enforce the provisions hereof may recover such damages as such person has sustained by reason of the violation of such provisions.

12.14 Suspension of the Covenants. The Declarant and the Architectural Control Committee shall and do have the right during the period of construction, development, and sale of the Lots in the Subdivision, to grant reasonable and specifically limited exemptions from the Covenants to Declarant and any other developer or contractor. Any such exemptions shall be granted only upon specific written request, itemizing the exemption requested, the location thereof, the need therefor, and the anticipated duration thereof; and any authorization and approval thereof shall be similarly itemized. No such exemption shall be broader in terms of activity, location, or time than is reasonably required.

12.15 Non-Waiver. Any failure or delay on the part of either the Declarant or the Architectural Control Committee (i) to exercise any right, remedy or duty under this Declaration, or (ii) to take any action to enforce the Covenants or the Declaration, with

regard to any one matter or situation or group of matters or situations in any manner covered by or arising out of the Covenants or Declaration shall not in any manner be deemed or construed to be a waiver of any subsequent matter or situation or group of matters or situation arising hereunder. No forbearance of any type for any period of time by either the Declarant and/or the Architectural Control Committee shall be in any manner deemed or construed to be a waiver of any right, remedy or duty hereunder, but all such rights, remedies and duties shall continue in full force and effect as if no forbearance had occurred.

12.16 Liberal Interpretation. This Declaration, and all of the covenant, conditions, assessments, charges, servitudes, liens, reservations and easements, shall be liberally construed to effectuate the purposes of this Declaration.

IN WITNESS WHEREOF, I, Jeffrey H. Brown, have signed this Declaration as of the day and year first above written.

GEAUX CORPORATION

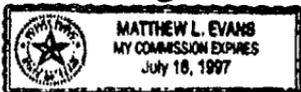
Jeffrey H. Brown
JEFFREY H. BROWN, PRESIDENT

Declarant

STATE OF TEXAS §

COUNTY OF SMITH §

This instrument was acknowledged before me on this 7th day of February 1996/1996 by Jeffrey H. Brown in the capacity therein stated.



Matthew L. Evans
Notary Public in and for the State of Texas

Filed for Record in:
SMITH COUNTY, TEXAS
MARY MORRIS - COUNTY CLERK

On Feb 08 1996
At 2:48pm

Deputy - Janis Farrell

00003.nmg(mf)

Forward original document to:

Geaux Corporation
16758 CR 178
Tyler, TX 75703

STATE OF TEXAS COUNTY OF SMITH
I hereby certify that this instrument was filed on this date and time signed hereon by me and was duly recorded in the official public records of Smith County, Texas.



FEB 8 1996

MARY MORRIS
COUNTY CLERK, Smith County, Texas

By Janis Farrell Deputy

96-R0004825

CORPORATE RESOLUTION AUTHORIZING

SIGNATURE OF OFFICER

961631

Resolved, that the Board of Directors of Geaux Corporation hereby authorizes and empowers Jeffrey H. Brown, its President, to execute on behalf of said corporation all documents (including, without limitation, deeds, affidavits, releases, deeds of trust and settlement statements) necessary to the sale by said corporation of real property owned by it in the Acadia Place Subdivision, Smith County, Texas, according to plat thereof recorded in the Plat Records of Smith County, Texas.

Resolved further, that this resolution shall remain in full force and effect until rescinded or modified by a resolution duly adopted by the Board of Directors of said corporation and that the certification of the Secretary of said corporation as to the signature of Jeffrey H. Brown shall be binding on said corporation.

I, Katherine K. Fackrell, Secretary of Geaux Corporation, duly organized and existing under the laws of the State of Texas, do hereby certify that the foregoing is a true and correct copy of a resolution of the Board of Directors of said corporation, passed and adopted at a special meeting of the Board of Directors held on February 6, 1996, at which meeting a quorum of the Board of Directors was at all times present and acting.

I further certify that said resolution is still in full force and effect and has not been amended or revoked, and that the specimen signature appearing below is the signature of the officer authorized to sign for said corporation by virtue of this resolution.

IN WITNESS WHEREOF, I have set my hand as such Secretary this 7th day of February, 1996.

AUTHORIZED SIGNATURE:

GEAUX CORPORATION

Jeffrey H. Brown
JEFFREY H. BROWN

By: K. K. Fackrell
KATHERINE K. FACKRELL, s/k/d K K FACKRELL
SECRETARY

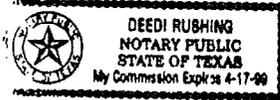
Filed for Record in:
SMITH COUNTY, TEXAS
HARRY MORRIS - COUNTY CLERK

On Feb 06 1996
At 2:44pm

Deputy - Janis Farrell

STATE OF TEXAS
COUNTY OF SMITH

This instrument was acknowledged before me on February 7th, 1996, by Katherine K. Fackrell, Secretary of Geaux Corporation, on behalf of said corporation.
a/k/a K K FACKRELL



Deedi Rushing
Notary Public, State of Texas

Forward original document to:

Geaux Corporation
16758 CR 178
Tyler, TX 75703

STATE OF TEXAS COUNTY OF SMITH
I hereby certify that this instrument was filed
on this date and by the person named herein and
was duly recorded in the Official Public Records
of Smith County, Texas.



FEB 8 1996

MARY MORRIS
COUNTY CLERK, Smith County, Texas

[Signature]
Deputy

ACADIA PLACE ADDITION, UNIT II

DECLARATION OF COVENANTS, CONDITIONS, ASSESSMENTS, CHARGES, SERVITUDE, LIENS, RESERVATIONS AND EASEMENTS (SINGLE FAMILY)

19

This Declaration of Covenants, Conditions, Assessments, Charges, Liens, Reservations and Easement (herein called the "Declaration") is made as of the 21st day of April 2000, by Geaux Corporation, a Texas Corporation, (herein called "Declarant").

WITNESSETH

Whereas, Declarant is the owner of Lots 1-10, Block 1; Lots 1-10, Block 2; Lots 1-16, Block 3; Lots 1-9, Block 4; and Lots 1-9, Block 5; Acadia Place Addition, Unit 2, according to the plat thereof recorded in **Cabinet D, Slide 60-A**, of the Plat Records of Smith County, Texas; and,

Whereas, in order to enable Declarant to implement a general plan of development and accomplish the development of such lands as a planned unit residential development of high quality and standards in a consistent manner with continuity and to insure the creation of an architecturally harmonious subdivision, Declarant desires to subject the Property, as hereinafter defined, to the covenants, conditions, assessments, charges, servitudes, liens, reservations and easements hereinafter set forth (hereinafter collectively called the "Covenants").

Now, therefore, Declarant hereby declares that the Property shall be held, sold and conveyed subject to covenants.

ARTICLE I DEFINITIONS

The following words, phrases or terms used in this Declaration shall have the following meanings:

A. "Architectural Control Committee" shall mean Jeff Brown, Jerry Fackrell, Gerald Fackrell III, Kenneth Anderson, and Katherine K. Fackrell or such other person or persons who shall be named to serve in conjunction with or as the successors to such persons by the Declarant; provided, however, that such change shall not be effective for purposes of these Covenants until a statement of such change has been duly recorded by the Declarant in the Real Property Records of Smith County, Texas. The Declarant shall have the right at any time to change the membership of the Architectural Control Committee at the sole discretion of said Declarant by the filing for record in the Real Property Records of Smith County, Texas, of a statement to such effect as provided herein.

- B. "Assessable Property" shall mean each of the Lots.
- C. "Assessment Lien" shall mean the lien created and imposed by Article VI.
- D. "Covenants" shall mean the covenants, conditions, assessments, charges, servitudes, liens, reservations and easements set forth herein.
- E. "Declarant" shall mean Geaux Corporation, and any successor or assign of Declarant's rights and powers hereunder, but with respect to any such successor or assign (i) such successor or assign shall not be deemed to be a "Declarant" unless such successor or assign is designated as such pursuant to a written instrument signed by Declarant (which written instrument shall be filed of record in the Real Property Records of Smith County, Texas, designating that part of the Property to which it relates) and (ii) such successor or assign shall only have those rights and powers of Declarant that are specifically assigned to such successor or assign pursuant to such written instrument.
- F. "Declaration" shall mean this Declaration of Covenants, Conditions, Assessments, Charges, Servitude, Liens, Reservations Easements as amended or supplemented from time to time as herein provided.
- G. "Deed" shall mean a deed or other instrument conveying the fee simple title to all or any portion of the Property, including but not limited to a Lot.
- H. "Dwelling Unit" shall mean a building, and any portion thereof, situated on a lot designed and intended for the use and occupancy as a residence by a single family.
- I. "Lot" shall mean any lot shown upon the Plat of the Property filed for record in **Cabinet D, Slide 60-A** of the Plat Records of Smith County, Texas (as such plan may be amended from time to time), together with any lots which may, from time to time, result from the resubdivision, combination or division of any of such lots as may be shown upon a plat or plats of the Property of any part thereof hereinafter filed for record in the Plat Records of Smith County, Texas.
- J. "Maintenance Charges" shall mean any and all costs assessed pursuant to Article V.
- K. "Owner" shall mean the person or persons, entity or entities, who own record fee simple title to a Lot. The term "owner" shall exclude any person or person, entity or entities, having an interest in a Lot or any such parcel merely as security for the performance of an obligation; the term "Owner" shall include Declarant if Declarant is a record owner of fee simply title to a Lot.
- L. "Permanent Improvements" shall mean with respect to any Lot or any

other portion or parcel of the Property, any and all improvements, structures and other materials and things located thereon (not including trees, berms, shrubs, hedges, and fences), including such items as may only be located thereon temporarily.

M. "Plat" shall mean the plat of the Property presently on the file **Cabinet D, Slide 60-A**, of the Plat Records of Smith County, Texas, and any other plat or plats of all portion of the Property hereinafter, filed for record in the Plat Records of Smith County, Texas, (as such plat or plats may be amended from time to time).

N. "Property" shall mean the real Property shown and described on the Plat.

O. "Subdivision" shall mean the residential subdivision located in Smith County, Texas, and known as "Acadia Place Addition, Unit H" according to the Plat as the same may be amended or supplemented from time to time.

ARTICLE II COVENANTS BINDING ON PROPERTY AND OWNERS

2.01 Property Bound. From and after the date of recordation of this Declaration, the Property and each Lot shall be subject to the Covenants, and the Covenants shall run with, be for the benefit of, and bind and burden the Property.

2.02 Owners Bound. From and after the date of recordation of this Declaration, the Covenants shall be binding upon and insure to the benefit of each Owner and the heirs, executors, administrators, personal representatives, successors and assigns of each Owner, whether or not so provided or otherwise mentioned in the Deed. Each Owner, his heirs, executors, administrators, personal representatives, successors and assigns, expressly agrees to pay, and to be personally liable for, the assessments provided for hereunder, and to be bound by all the Covenants herein set forth.

ARTICLE III ARCHITECTURAL CONTROL

3.01 Reservation of Architectural Control. The Declarant, desiring to provide for the preservation of the values and amenities in and upon the Property and to provide for the preservation of the Property to the architectural control hereinafter expressed for the purpose of implementing a general plan of development for the Property to insure the creation of a high quality, architecturally-harmonious subdivision, such general plan of development and reservation of architectural control is for the benefit of the Property and each Owner of any part of thereof, as well as for the benefit of the Declarant as developer of the Property, hereby reserves the right and all rights to approve or disapprove as to:

- (a) compliance with any specific restrictions imposed by Declarant, the Architectural Control Committee, or anyone acting on behalf of either the Declarant or Architectural Control Committee, with respect to the Property, and any part thereof; and,

(b) harmony of external design, locations and landscaping in relation to surrounding structures and topography which are now or hereafter may be existing or proposed, including, but not by way of limitation, architectural designs, setbacks, landscaping, color schemes and construction materials, any and all subdivisions, re-subdivisions (where permitted), exterior additions to, changes in, construction, alteration or excavation of the Property or any part thereof (including, but not limited to the trees located thereon which exceed four inches in diameter) and any and all structures and improvements located thereon, either permanent or temporary, including without limitation, additions to, changes in, or alterations of grade, landscaping, roadways, walkways, signs, exterior lights, walls, fences, buildings, or other structures or improvements located thereon which any person or entity, including without limitation, governmental and quasi-governmental subdivisions or agencies seeks to commence, erect, place or maintain upon the Property, or any part thereof.

All requests for approval of the above shall be submitted in writing to the Architectural Control Committee at 5520 Old Bullard Rd., Suite 113, Tyler, Texas, 75703, or at such other address as may from time to time be designated of record in the Real Property Records of Smith County, Texas, and shall be accompanied by complete and specific plans and specifications showing the nature, kind, shape, height, materials, color, location and other material attributes of the structure, improvement, addition, change, alteration or excavation of the Property, or any part thereof. All such request for approval shall also be accompanied by the payment of \$25.00, in tender acceptable to the Architectural Control Committee. The Architectural Control Committee shall have no duty to exercise the power of approval or disapproval hereby reserved.

With respect to the Property, or any part thereof, and all Lots, without assigning, transferring or conveying any interest in the Property, or any part thereof, or any of the Lots, Declarant has and does herein and hereby delegate the power of approval and disapproval herein reserved to the Architectural Control Committee. This delegation of the power of approval and disapproval may be rescinded at any time by the Declarant by the filing of an instrument so stating such act of rescission in the Real Property Records of Smith County, Texas. As long as this delegation of the power of approval and disapproval is in effect, any person or entity owning any interest in the Property, or any part thereof, of any Lot, or any part thereof (where permitted), shall be required to deal with the Architectural Control Committee, and not the Declarant, and the Declarant shall have no responsibility or liability of any nature whatsoever for the actions of the Architectural Control Committee.

3.02 Prior Approval. No building, fence, wall, sign, exterior light, or other structure or apparatus, either permanent or temporary, shall be commenced, erected, placed, or maintained upon any Lot constituting a portion of the Property, nor shall any exterior addition thereto, change therein or alteration, excavation, subdivision, or re-subdivision thereof, including without limitation changes in or alteration of grade, landscaping, roadways, and walkways, be made until the plans and specifications

showing the nature, kind, shape, height, materials, color, location, and other material attributes of the same shall have been submitted in writing to and approved in writing by the Architectural Control Committee as to (i) compliance with Covenants herein contained, and (ii) harmony of external design and location in relation to surrounding structures and topography which are now or hereafter existing or proposed, including, but not by way of limitation, as to architectural designs, setbacks, landscaping, color schemes and construction materials. The Architectural Control Committee shall have the right to promulgate a form for submission of such items to the Architectural Control Committee, and upon such promulgation, all Owners shall be required to use the form for all such submissions. In the event the Architectural Control Committee fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been properly submitted to it, approval will be granted, and this Article will be deemed not to have been fully complied with. Non-exercise of the powers hereby reserved by Declarant in one or more instances shall not be deemed to constitute a waiver of the right to exercise such power in other or different instances. Likewise, approval of any one set of plans and specifications shall not be deemed to constitute approval of any other plans and specifications. In the absence of gross negligence or willful misconduct attributable to the Architectural Control Committee, such Architectural Control Committee shall not be liable for the improper enforcement or failure to exercise any powers reserved and delegated unto said Architectural Control Committee pursuant to this Article. In no event shall any approval obtained from such Architectural Control Committee pursuant to the terms of this Article be deemed to be a representation of any nature regarding the structure integrity, safety, fitness, for a particular purpose, or engineering soundness of the structure or other item for which such approval was obtained, nor shall such approval represent in any manner compliance with any building or safety codes, regulations or statutes; nor shall such approval be constructed as a representation or warranty as to any structure or other item which is the subject of such approval.

ARTICLE IV GENERAL RESTRICTIONS

4.01 Single-Family Residential Purposes. All lots in the Subdivision and all Permanent Improvements thereon shall be used only for single-family residential purposes. No lot in the Subdivision shall be used for any commercial, business or professional purposes, as determined solely by the Architectural Control Committee whose determination shall not be subject to challenge, review or appeal, judicially or otherwise. Each Owner by accepting a Deed to a Lot hereby waives any and all rights to challenge, review or appeal such determination by the Architectural Control Committee.

4.02 Types of Structures. Unless otherwise approved by the Architectural Control Committee, no Permanent Improvements shall be erected, constructed, altered or permitted to remain on any Lot in the Subdivision other than (1) one detached single-family, residential dwelling not to exceed two (2) stories height. Each such Dwelling Unit shall have a private garage as provided in Section 4.03 below. No used or previously constructed building shall be moved onto any Lot. No structure of a

temporary outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.

4.03 Garage Construction. All garages constructed on any Lot in the Subdivision shall be a part of the Dwelling Unit attached thereto by a breezeway. All garages shall be fully enclosed and have spaces for a least two vehicles. Garages may not be closed in and occupied or used as part of the residential dwelling for other than storage and parking vehicles without the express written consent of the Architectural Control Committee, which consent may be withheld for any reason.

4.04 Minimum Dwelling Size.

A. The living area of Each Dwelling Unit, as determined in the sole opinion of the Architectural Control Committee, on the Lot located in the Subdivision shall not be less than 1650 square feet (heated and cooled) of floor plan.

B. The said minimum square footage requirements for Dwelling Units in the Subdivision shall be exclusive of porches, breezeways, terraces, garages (whether detached or attached), cabanas and other attached or detached outbuildings.

C. Declarant reserves the right, at any time, to unilaterally amend this Declaration so as to increase the minimum square footage requirements for Dwelling Units on any and all Lots then owned by the Declarant, but such change shall not affect Lots previously conveyed by the Declarant.

4.05 Setbacks. The building setback lines for the Subdivision are set forth and established on the Plat, which building setback lines shall control the location of all Permanent Improvements. The Architectural Control Committee may, unilaterally without amendment to this Declaration, permit a change in the setback line on any Lot in said subdivision which in the sole opinion of the Architectural Control Committee it is determined to be advisable to permit such change. Notwithstanding anything contained herein to the contrary, the overhang of a roof on a Dwelling Unit may extend over the building setback line by no more than one (1) foot. The slab for each Dwelling Unit must not extend past or over any building setback line.

4.06 Retaining Walls, Fences, Hedges, and Other Screening Material. Unless written approval is issued by the Architectural Control Committee, No retaining wall, fence, planter, hedge, or any other screening material in excess of (2) feet high shall be erected or maintained nearer to the front street lot line than the front street building setback line, nor on corner lots nearer to the side street lot line than the front street building setback line parallel to the side street. Unless written approval is issued by Architectural Control Committee, no rear or side fence, wall, hedge or other screening material shall be more than six (6) feet high. The Architectural Control Committee shall have the power to grant a variance in the Real Property Records of Smith County, Texas. Granting of variance to any Lot or Lots shall not in any manner be deemed to have granted or have the right to be granted a similar variance to any other Lot.

4.07 Driveways. As to any Lot, all driveways shall be entirely of concrete (except, however, some other material, including asphalt, may be used with the prior written consent of the Architectural Control Committee) and shall be paved before any Dwelling Unit may be occupied. No driveway or other roadway may be constructed on any Lot in such a manner as to furnish access to any adjoining Lots or other property without the prior written consent of the Architectural Control Committee.

4.08 Walks. Walks from the street curb to all Dwelling Units in the Subdivision shall have a minimum width of three (3) feet and shall be constructed entirely of concrete (except, however, some other material, excluding asphalt, may be used without the prior written consent of the Architectural Control Committee).

4.09 Construction Material. All materials used in the construction of the exterior of any Dwelling Unit or other structure must be approved in writing by the Architectural Control Committee before commencement of construction. Any exposed exterior walls, exclusive of doors, windows and gable areas, shall not be less than seventy (70.0 %) per cent brick, brick veneer, stone, stone veneer or masonry construction with all other exterior construction materials to be of such grade and quality as shall be approved in writing by the Architectural Control Committee. All solar collectors and panels to be incorporated into the design or construction of any Dwelling Unit must receive specific written approval from the Architectural Control Committee prior to commencement of construction. Only new construction materials shall be used (except for brick if and as approved by the Architectural Control Committee on a case-by-case basis). No concrete blocks shall be used in construction unless the blocks are completely covered up by the final exterior finish material. All Dwelling Units shall be built on a slab, solid concrete beam foundation, or a pier and beam foundation approved by the Architectural Control Committee. No wood shingles may be utilized in connection with the construction of a Dwelling Unit.

4.10 Drilling Activity. At no time shall the drilling, usage or operation of any water well or any well or excavation for any oil, gas or other minerals be permitted on any Lot.

4.11 Air Conditioners and Heaters. No window or wall-type air conditioner or heater shall be permitted to be used, erected, placed or maintain on or in any Dwelling Unit.

4.12 Utilities. Each Dwelling Unit shall be required to be connected to the water distribution system and sanitary sewer collection system in the Subdivision as soon as such utilities are available in the easement adjacent to or within the respective Lot upon which the Dwelling Unit is located. Individual underground electrical service drops must be installed to each Dwelling Unit. Each Owner shall comply with the requirements of the applicable utility company regarding such underground service installations, including without limitation the payment of any lawful charges which might be incurred for the installation of the underground service as set forth in applicable utility company

rules, regulations and terms and conditions of service, as the same may be amended from time to time without notice.

4.13 Antennas. No exterior television, radio, or other antenna of any type not any radio or television satellite dish or satellite dish larger than 18" in diameter shall be placed, allowed or maintained upon any lot or structure thereon without the written consent of the Architectural Control Committee.

4.14 On-Street Parking. On-street parking shall be and is hereby restricted to approved deliveries, pick-up, or short-time guests and invitees, and all on-street parking shall be subject to such reasonable rules and regulations as shall be adopted from time to time by the Architectural Control Committee. At no time shall any Owner, or any relative of any Owner, or anyone residing in a Dwelling Unit or otherwise occupying a Lot, or any part thereof, either permanently or temporarily, or any guests or invitee of any Owner, resident or occupant of any Lot, or any part thereof, park or allow to be parked for any reason on any street in the Subdivision any motor home, recreational vehicle, bus, tractor, trailer, bobtail truck, van in excess of three-quarters (3/4) of a ton, or truck of any type in excess of three-quarters (3/4) of a ton. The Architectural Control Committee shall have the power to grant a variance for any Lot or Lots from the restrictions contained in this section 4.14 by the filing of such variance in the Real Property Records of Smith County, Texas; provided, however, that the granting of one variance shall not manner be deemed an approval of or right to obtain the same or similar variance for any other person or use whatsoever.

4.15 Storage. No exterior storage of any kind shall be permitted, except with prior written approval and authorization of the Architectural Control Committee. An such, storage as is approved and authorized shall be in areas attractively screened or concealed (subject to all required approvals as to architectural control) from view from neighboring property, Dwelling Units, pathways, and streets. This provision shall apply, without limitation, to woodpiles, camping trailers, boat trailers, travel trailers, boats, recreational vehicles, motorcycles, all terrain vehicles, trailers, automobiles, trucks, or other vehicles of any type whatsoever, regardless of ownership, age, condition, type or appearance. No moveable property shall remain on any Lot in any manner which could be constructed as being stored, neglected, abandoned or otherwise not in frequent use, except pursuant to written approval and authorization of the Architectural Control Committee or unless stored in a garage.

4.16 Garbage. No rubbish, garbage, or trash shall be placed or be allowed to remain at the exterior of any Dwelling Unit or other structure on any Lot, except in containers meeting the specifications of the Declarant or Architectural Control Committee. The placement, maintenance, and appearance of all such containers shall be subject to reasonable rules and regulations of the Architectural Control Committee. The placement of all such containers shall be in areas attractively screened or concealed (subject to all required approvals as to architectural control) from the view from neighboring property, Dwelling Units, pathways and streets. Each Owner is responsible to provide that all rubbish, garbage and trash shall be regularly removed said Owner's

Lot and rubbish, garbage and trash shall not be allowed to accumulate thereon, including any time period when any construction is in progress on any Lot.

4.17 Outside Lighting. No outside lighting shall be placed, allowed or maintained any where on any Lot without prior written approval and authorization of the Architectural Control Committee.

4.18 Animals. No animals, reptiles, fish or birds of any kind shall be raised, bred or kept on any Lot except pursuant to prior written approval of and accordance with any rules and regulations promulgated by the Architectural Control Committee, provided, however, that dogs, cats, birds, or fish may be kept thereon as household pets so long as such pets are not, or do not become, a nuisance, threat, or otherwise objectionable to the other Owners.

4.19 Re-subdivision. No Lot shall be further subdivided and no portion less than all of any such Lot, or any easement or other interest therein, shall be conveyed by any Owner without the prior written authorization and approval of the Declarant, its successors or assigns.

4.20 Utility and Service Lines. No gas, electric, power, telephone, water, sewer, cable television or other utility or service lines of any nature of kind shall be placed, allowed or maintained upon or above the ground on any Lot, except to the extent, if any, underground placement thereof may be prohibited by law or would prevent the subject line from being functional. The foregoing shall not prohibit service pedestals and above ground switch cabinets and transformers where required.

4.21 Burning and Incinerators. No open fires shall be permitted on any Lot at any time and no incinerators or like equipment shall be placed, allowed or maintained upon any Lot. The foregoing shall not be deemed to preclude the use, in customary fashion, of out-door residential barbecues or grills.

4.22 Signs. No exterior signs or advertisements of any kind may be placed, allowed or maintained on any Lot without prior approval and authorization of the Architectural Control Committee, except that mailboxes to be constructed of brick or other approved material, residential nameplates, "for sale" signs not exceed four (4) square feet in size, and signs designating the contractor of the Dwelling Unit upon such Lot may be placed and maintained in conformity with such common specifications, including without limitation, reasonable restrictions as to size, as may be adopted from time to time by the Architectural Control Committee. Notwithstanding anything to contrary set forth above, these restrictions do not prohibit any Owner from erecting temporarily a sign not to exceed four (4) square feet related to political, civic, educational, or religious activities.

4.23 Septic Tanks and Sewage Disposal. No septic tank or other means of sewage disposal may be installed on any Lot. No outside toilets of any kind are permitted, except during the period of construction of a Dwelling Unit during which time

chemically treated outside toilets shall be maintained in a manner subject to approval of the Architectural Control Committee; and no installation of any type of device for disposal of sewage shall be allowed which would result in raw or untreated or unsanitary sewage being carried into any body of water or water source.

4.24 Firearms and Weapons. No lot or any other portion of the Property shall be used or permitted for hunting or for the discharge of any pistol, rifle, shotgun, or any other firearm, or any bow and arrow and any other device capable of killing or injury.

4.25 Diseases and Insects. No Owner shall permit any thing or condition to exist upon any Lot which shall in the sole opinion of the Architectural Control Committee induce, breed or harbor plant disease or noxious insects.

4.26 Sidewalk Encroachments. No tree, shrub, or plant of any kind on any Lot shall be allowed to overhang or otherwise encroach upon the sidewalk or any other pedestrian way from ground level to a height of seven (7) feet without the prior written approval and authorization of the Architectural Control Committee.

4.27 Machinery, Fixtures and Equipment. No machinery, fixtures or equipment of any type, including without limitation, air condition or refrigeration equipment and clothes lines, shall be placed, allowed or maintained upon the ground on any Lot, except with prior written approval and authorization of the Architectural Control Committee (subject to all required approvals as to architectural control), and no such machinery, fixtures or equipment shall be placed, allowed or maintained anywhere other than the ground (such as the roof) except with prior written approval and authorization of the Architectural Control Committee. If allowed by the Architectural Control Committee, such machinery, fixtures or equipment shall be screened or concealed (subject to all required approvals as to architectural control) in such manner that the screening or concealment thereof appears, as determined in the sole discretion of the Architectural Control Committee, to be part of the integrated, architectural design of the building and does not have the appearance of a separate piece or pieces of machinery, fixtures or equipment.

4.28 Violation of Statutes, Ordinances and Regulations. No Lot shall be maintained or utilized in such manner as to violate any applicable statute, ordinance or regulation of the United States of America, the State of Texas, the County of Smith, the City of Tyler, or any other governmental or quasi-governmental agency or subdivision having jurisdiction over the Property.

4.29 Violation of Rules or of Covenants. No Lot shall be maintained or utilized in violation of this Declaration or of the rules and regulations of the Declarant or the Architectural Control Committee, or the Covenants.

ARTICLE V – IMPROPER MAINTENANCE BY OWNER

5.01 Improper Maintenance. In the event any portion of the Property, any Dwelling Unit thereon, or any Permanent Improvements thereon, specifically including any perimeter wall within the easement immediately adjacent to or actually upon the respective Lot of an Owner, is in the sole judgement of the Architectural Control Committee so maintained by the Owner thereof (i) as to present a public or private nuisance, (ii) as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Property or any adjacent land owned by Declarant, or its successors or assigns, not presently included in the Property but which is substantially affected thereby or related thereto, or (iii) as to not in any manner comply with and of these Covenants, the Architectural Control Committee may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto deliver notice thereof to the offending Owner that unless corrective action is taken within ten (10) days, the Architectural Control Committee will cause such action to be taken at such Owner's cost, including entry upon the Owner's Lot, if necessary, and if such can be accomplished without a breach of the peace, and any such entry by the Architectural Control Committee or anyone at their direction should not be deemed a trespass and neither the Declarant, the Architectural Control Committee nor anyone else entering upon any Lot shall be subject to any liability thereof. If after the expiration of said ten (10) day period of time, the requisite corrective action has not been taken, the Architectural Control Committee shall be and is hereby authorized and empowered to cause such action to be taken and all costs thereof and associated therewith, including but not limited to the cost of collection, court costs and reasonable attorney's fees (such costs being herein collectively called "Maintenance Charges"), together with interest accruing thereon from the date or dates of occurrence of such costs at the maximum rate of interest which may be charged under applicable law (including the laws of the United States of America) from such date(s) until paid (or at such a lesser rate as may be determined by the Architectural Control Committee in its sole discretion on a case-by-case basis from time to time), shall be assessed against the Lot and the Dwelling Unit of the offending Owner. The Maintenance Charges, together with all interest accruing thereon, shall be secured by the Assessment Lien as provided in Article VI hereof. Written notice of such assessment shall be delivered to the offending Owner which notice shall specify the amount of such Maintenance Charges and shall demand payment thereof within thirty (30) days after the date of said notice.

ARTICLE VI – IMPOSITION OF LIEN; OWNERS' AGREEMENT

6.01 Owner's Agreement. Each Owner, owning a portion of the Property or of any Lot, for said Owner, and the Owner's heirs, executors, administrators, personal representatives, and assigns, covenants and agrees:

A. That the Owner acquires the Owner's Lot subject to the Maintenance Charges and the Assessment Lien, as they may exist from time to time; and

B. That by accepting a Deed to the Owner's Lot, the owner is, shall be, and remain, personally liable for any and all Maintenance Charges assessed against the said Owner's Lot while said Owner is (or was) the Owner thereof, regardless of whether such covenants or agreement are expressed in such Deed and regardless of whether the said Owner signed the Deed; and

C. That by accepting a Deed to the Owner's Lot and to secure the Owner's performance hereunder, the Owner conveys the Property or Lot, and all portions thereof, to the Architectural Control Committee in Trust, with a power of sale, he warrants and agrees to defend the title to the said Property or Lot, and all portions thereof. If the Owner pays all of the Maintenance Charges imposed against the Owner's Property or Lot in accordance herewith, this conveyance, in trust shall have no further effect. If the Owner fails to pay any of the Maintenance Charges imposed against the Owner's Property or Lot, the Architectural Control Committee shall give written notice of default to the Owner. If the Owner fails to make appropriate payment within thirty (30) days following delivery of the written notice of default by the Architectural Control Committee, the Architectural Control Committee shall appoint a trustee in writing and recorded in the Land Records of Smith County, Texas, and such trustee shall have the right to foreclose nonjudicially upon the Assessment Lien granted herein in accordance with and upon compliance with the provisions of Section 51.002 of the Texas Property Code, as the same may be amended or supplemented from time to time.

ARTICLE VII ENFORCEMENT OF DECLARATION AND OF/MAINTENANCE CHARGES AND OF ASSESSMENT LIEN

7.01 Enforcement by Declarant or Architectural Control Committee. The Declarant or the Architectural Control Committee, acting either jointly or independently, shall have the exclusive right, jointly or independently, to enforce the provisions of this Declaration. However, if both the Declarant and the Architectural Control Committee shall fail or refuse to enforce this Declaration, or any part hereof, for an unreasonable period of time after written request from an Owner's sole cost and expense by an appropriate action, whether at law or in equity, and neither the Declarant or the Architectural Control Committee shall have any liability for failing or refusing to enforce this Declaration to any Owner or any other property or entity.

7.02 Enforcement Remedies. If the Owner of any Lot constituting a portion of the Property fails to pay any Maintenance Charges assessed, or to pay any interest accrued on any Maintenance Charges, and any and all costs (including court costs and attorney's fees) incurred by either the Declarant or the Architectural Control Committee, or both, in collecting same, the Declarant and/or the Architectural Control Committee, as applicable, shall have the right to enforce the payment of the Maintenance Charges and all interest accrued thereon the costs incurred by either the Declarant or the Architectural Control Committee, or both, in collecting same, and/or enforce the Assessment Lien by taking either or both of the following actions, concurrently or separately (and, by

exercising either of the remedies herein after set forth, the Declarant and the Architectural Control Committee do not prejudice there exercise of any other remedy):

(a) Bring an action at law and recover judgement against the Owner personally obligated to pay Maintenance Charges, or Subdivision Greenbelt Charges; or

(b) Enforce the Assessment Lien against the Lot by any means available at Law or in equity, including without limitation a nonjudicial foreclosure sale of the Lot, such sale to be conducted in the manner set forth in Section 51.003 of the Texas Property Code, as the same may amended or supplemented from time to time. The Declarant or any other Owner may be the purchaser at any such foreclosure sale.

7.03 Subordination of the Assessment Lien to First Mortgage or Deed of Trust. The Assessment Lien provided for herein shall be subordinate to any first mortgage lien. Sale or transfer of any Lot shall not affect the Assessment Lien, provided, however, that if the sale or transfer is pursuant to foreclosure of any such superior mortgage lien or deed of trust, the purchaser at the mortgage lien foreclosure or deed of trust sale, shall take the Lot free of Assessment Lien for all Maintenance Charges that have accrued up to the date of issuance of a sheriff's or trustee's deed. If the transfer is effectuated by deed in lieu of foreclosure, the Assessment lien immediately shall become and remain superior to any and all other charges, liens, or encumbrances (except lien for taxes or other public charges which by applicable law are expressly made superior and except to the extent stated herein with respect to any subsequent first lien financing) and such mortgage or deed of trust foreclosure sale purchaser or grantee shall take the Lot or Property subject to all Maintenance Charges and the Assessment Lien therefor accruing prior to the date of the deed given in lieu of foreclosure.

ARTICLE VIII - RIGHTS AND POWERS

8.01 Enforcement. The Declarant and the Architectural Control Committee, jointly or severally, shall have the right to enforce the Covenants set forth in this Declaration and/or any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, or liens provided for any contract, deed, declaration, or other instrument affecting all or any part or parts of the Property or any Lot. Any such instrument shall have been executed pursuant to, or subject to, the provisions, of this Declaration, or otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Declarant and/or the Architectural Control Committee; provided, however, that any such instrument that is recorded subsequent to recordation of this Declaration shall at all times be subordinate and inferior to this Declaration whether or not so provided in such instrument.

8.02 Right to Inspect. The Declarant and the Architectural Control Committee jointly or severally, shall have the right to enter upon all Lots for the purpose of inspecting whether or not the Owner thereof is in compliance with the Declaration and Covenants. If during the course of construction of a Dwelling Unit upon a Lot, the

Declarant or the Architectural Control Committee, jointly or severally, determines in its/their sole discretion that there is a violation of the Covenants, the Declarant or the Architectural Control Committee, as appropriate, may order a discontinuance of the construction of the Dwelling Unit until such time as corrective measures have been taken to assure full compliance with the Covenants, and an Owner's failure to immediately discontinue or cause the discontinuance of construction of the Dwelling Unit, upon demand by Declarant or the Architectural Control Committee, shall constitute a further violation of this Declaration by that Owner.

ARTICLE IX RESERVATION OF DECLARANT

The following reservations are hereby made by Declarant:

A. The utility easements shown on any Plat are dedicated with the reservation that such utility easements are for the use and benefit of any public utility operating in Smith County, Texas, as well as for the benefit of Declarant to allow for the construction, repair, maintenance and operation of a system or systems of electric light and power, telephone lines, television cable lines, security, gas, water, sanitary sewers, storm and sewers and any other utility or service which Declarant may find necessary or proper.

B. Declarant reserves the right from time to time to make changes in the location, shape, and size of, and additions to, the easements described in Section IX (A), above, for the purpose of more efficient or desirable utilities thereon.

C. The title conveyed to the Lot or any part of the Property shall not be held or constructed to include the title to the water, gas, electricity, telephone, storm sewers, or sanitary sewer lines, poles, pipes, conduits, cable television lines or other appurtenances or facilities constructed by Declarant or public utility companies upon, under, along, across or through such utility easements; and the right (but not obligation) to construct, maintain, repair and operate such systems, utilities, appurtenances and facilities is reserved to Declarant, its successors and assigns.

D. The right to sell or lease the lines, utilities, appurtenances and other facilities described in Section IX (C), above, to any municipality, governmental agency (including any water control or utility district created under Article XVI, Section 59 of the Texas Constitution covering the Property as well as other lands), public service corporation or other party is hereby expressly reserved to Declarant.

E. Neither Declarant nor its successors or assigns shall be liable for any damage done by any of such parties or any of their agents or employees to shrubbery, trees, flowers or other property of any Owner situated on the lots covered by the above described utility easement and necessitated by the use of those easements for their intended purpose.

F. The right to enter upon any Lot or Lots during installation of streets for the purpose of performing street excavation, construction, and paving is hereby reserved to Declarant, its successors or assigns, and neither Declarant, its successors or assigns, shall be liable for damage done by any such parties or any of their agents or employees to shrubbery, trees, flowers or other property of the Owner which is necessitated by such construction.

ARTICLE X TERMS; AMENDMENTS; TERMINATIONS

10.01 Term; Method of Termination. This Declaration and the Covenants shall be effective upon the date of recordation hereof and, as may be amended from time to time, shall continue in full force and effect to and including December 31, 2022. From and after December 31, 2022, this Declaration, as it may have been amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the then Owners of seventy-five percent (75.0%) of the Lots (each Owner having one vote per Lot owned) casting their votes for termination at a meeting held for such purpose within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension.

10.02 Amendments. Until the Declarant has initially sold all Lots in the Subdivision, such sales being evidence by the recording of a deed from the Declarant to the initial buyer of a Lot, this Declaration may be unilaterally amended or changed at any time by the Declarant for any reason or purpose as determined at the sole discretion of the Declarant. Thereafter, this Declaration may be amended or changed in whole or in part at any time only by the affirmative vote of the then Owners of seventy-five percent (75.0%) of the Lots (each Owner having one vote per Lot owned) casting their votes amend or change this Declaration at a special meeting called pursuant to Section 10.03 Notwithstanding the foregoing, Declarant, unilaterally without the joinder or vote of any Owner, shall have the right at any time to amend this Declaration as specifically authorized in Section 4.04 (C) to increase square footage requirements of Dwelling Units.

10.03 Election Procedures. The affirmative votes required under Section 10.01 and 10.02, hereof, shall be obtained and evidenced by the requisite vote by the Owners (including Declarant, if applicable) present at a meeting of Owners duly called by at least five (5) Owners or by the Declarant pursuant to notice to all of the Owners on or prior to ten (10) days before the date of the meeting at which meeting the requisite percentage of Owners, in person or by proxy, vote to so amend or terminate this Declaration (and the Covenants herein. The notice of the meeting must set forth the proposed amendment or change to this Declaration (and/or the requisite Covenants contained herein) and such affirmative vote of the requisite percentage of Owners must be evidenced by minutes of the meeting duly certified by the Owners who called the meeting or the Declarant. In any event, a copy of the minutes shall be delivered to the Declarant prior to any amendment or change becoming effective.

10.04 Recording of Amendments. Upon the amendment or change of this Declaration (and/or the Covenants contained herein) as herein provided, and upon the other conditions set forth in Section 10.01 or 10.02 (as the case may be) and Section 10.03 of this Article being satisfied, then each amendment shall be executed by the (i) the Declarant, its successors or assigns, or (ii) the Owners who voted in favor of the amendment or change, placed in recordable form, and filed of record in the Real Property Records of Smith County, Texas, accompanied by a statement that the requisite percentage of Owners have voted to make such amendment to this Declaration.

10.05 Effect. Upon the filing of any amendment or change in accordance with Section 10.04, this Declaration and the Covenants, as amended, shall remain in full force and effect.

10.06 Other Right of Amendment. Anything in this Article to the contrary notwithstanding, Declarant reserves the right to amend all or any part of this Declaration to such extent and with such language as may be required by any federal, state, or local agency which requires such an amendment as a condition precedent to such agency's approval of this Declaration, or by any lending institution as a condition precedent to lending funds upon the security of the Property or any portion thereon. Any such amendment shall be effected by the recordation, by Declarant, its successors or assigns, of a Certificate of Amendment signed by Declarant, its successors and assigns, with proper signatures acknowledge, specifying the federal, state, or local governmental agency or the federally chartered lending institution requiring the amendment and setting forth the amendatory language required by such agency or institution. Recordation of such a Certificate shall be deemed conclusive proof of the agency's or institution's requirements for such an amendment, and such Certificate, when recorded, shall be binding upon the Property, or the portion thereof so affected, and all persons or Owners having an interest in the same. Except as provided in this Section 10.06, Declarant shall not have any right to amend this Declaration otherwise than in accordance with and pursuant to the provisions of Section 10.02 hereof.

ARTICLE XI - RESERVATION OF RIGHT TO RESUBDIVIDE

Subject to approval of any and all appropriate governmental agencies having jurisdiction, Declarant hereby reserves the right at any time while it is the Owner thereof to subdivide or resubdivide, as the case may be, and/or plat or replay as the case may be, all or any portion of any Lot or Lots then owned by Declarant without consent of any Owner.

ARTICLE XII MISCELLANEOUS

12.01 Interpretation of the Covenants. Except for judicial construction, the Architectural Control Committee shall have the exclusive right and power to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the

contrary by a court of competent jurisdiction, the Architectural Control Committee's construction or interpretation of the provisions hereof shall be final, conclusive, and binding as to all persons and property benefited or bound by this Declaration, the Covenants and provisions hereof.

12.02 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other remaining provisions hereof, which remaining provision shall be and remain in full force and effect.

12.03 Rule Against Perpetuities. If any purported to be created by this Declaration is challenged under the Rule Against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" from computing the period of perpetuities shall be (a) those which would be used in determining the validity of the challenged interest, plus (b) if applicable, those of the issue of Mrs. April F. Chaisson who are living at the time the period of perpetuities starts to run on the challenged interest.

12.04 Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate, or modify any of the provisions of this Declaration.

12.05 Rules and Regulations. In addition to the right to adopt rules and regulations on the matter expressly mentioned elsewhere in this Declaration, the Declarant or the Architectural Control Committee, as applicable, shall have the right to adopt rules and regulations with respect to all other aspects of the rights, activities and duties of the Declarant or the Architectural Control Committee, as applicable, provided said rules and regulations are not inconsistent with the provisions of this Declaration.

12.06 Disclaimer of Representation. Anything to the contrary in this Declaration notwithstanding and except as otherwise may be expressly set forth on a recorded plat or other instrument recorded in the Real Property Records, Smith County, Texas, neither the Declarant nor the Architectural Control Committee makes any warranties or representations whatsoever that the plans presently envisioned for the complete development of the Property can or will be carried out.

12.07 Limitation of Liability. In the absence of gross negligence or willful misconduct attributable to (i) the Declarant, or its successors or assigns, or (ii) the Architectural Control Committee (and any and all members thereof), neither Declarant nor its successors or assigns, nor the Architectural Control Committee (nor any member thereof) shall have any liability of any nature whatsoever arising out of or in any manner related to the performance or nonperformance of any manner related to the performance or nonperformance of any rights and powers reserved unto Declarant or the Architectural

Control Committee, or their respect heirs, personal representatives, successors or assigns, pursuant to this Declaration.

12.08 Successors and Assigns. Any reference in this Declaration to Declarant shall include Declarant's successors and assigns.

12.09 Gender and Number. Whenever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include singular.

12.10 Captions and Title. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify, or otherwise affect any of the provisions hereof, or to be used in determining the intent or context thereof.

12.11 Notices. Any notice required or permitted to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, delivery shall be deemed to have been made twenty-four (24) hours after a copy of the notice has been deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed to each such person at the address given by such person to the party sending the notice or to the address of the Dwelling Unit of such person if no address has been given. Such address may be changed from time to time by written notice.

12.12 Prior Recorded Instruments. This Declaration and all of the provisions hereof are expressly subject to all prior recorded documents affecting the Property.

12.13 Enforcement of the Covenants. Notwithstanding anything to the contrary herein, in the event of any violation or attempted violation of any of the provisions thereof, including any of the Covenants, enforcement shall be authorized by an proceeding at law or in equity against any person or persons violating or attempting to violate any of such provisions, including proceedings to restrain or prevent such violation or attempted violation by injunction, whether prohibitive in nature or mandatory in commanding compliance with such provisions; and it shall not be a prerequisite to the granting of any such injunction to show inadequacy of legal remedy or irreparable harm. Likewise, any person entitled to enforce the provisions hereof may recover such damages as such person has sustained by reason of the violation of such provisions.

12.14 Suspension of the Covenants. The Declarant and the Architectural Control Committee shall and do have the right during the period of construction, development, and sale of Lots in the subdivision, to grant reasonable and specifically limited exemptions from the Covenants to Declarant and any other developer or contractor. Any such exemptions shall be granted only upon specific written request, itemizing the exemption requested, the location thereof, the need therefor, and the

anticipated duration thereof; and any authorization and approval thereof shall be similarly itemized. No such exemption shall be broader in terms of activity, location, or time than in reasonable required.

12.15 Non-Waiver. Any failure or delay on the part of either the Declarant or the Architectural Control Committee (i) to exercise any right or duty under this Declaration, or (ii) to take any action to enforce the Covenants or the Declaration, with regard to any one matter or situation or group of matters or situations in any manner covered by or arising out of the Covenants or Declaration shall not in any manner be deemed or construed to be a waiver of any subsequent matter or situation or group of matters or situation arising hereunder. No forbearance of any type for any period of time by either the Declarant and/or the Architectural Control Committee shall be in any manner deemed or construed to be a waiver of any right, remedy or duty hereunder, but all such rights, remedies and duties shall continue in full force and effect as if no forbearance had occurred.

12.16 Liberal Interpretation. This Declaration, and all of the covenants, conditions, assessments, charges, servitudes, liens, reservations and easements, shall be liberally construed to effectuate the purpose of this Declaration.

IN WITNESS WHEREOF, I, Gerald E. Fackrell III, have signed this Declaration as of the day and year first above written.

RETURN

GEAUX CORPORATION
5520 OLD BULLARD RD. #113
TYLER, TEXAS 75703

GEAUX CORPORATION

Gerald E. Fackrell III, V.P.
Gerald E. Fackrell III, Vice President

Declarant
Filed for Record in:
SMITH COUNTY, TEXAS
JUDY CARNES, COUNTY CLERK

On Apr 24 2000
At 11:58am

Deputy - Janis Farneth

STATE OF TEXAS

COUNTY OF SMITH

This instrument was acknowledged before me on this 21 day of April 2000, by Gerald E. Fackrell III in the capacity therein stated.

STATE OF TEXAS COUNTY OF SMITH
I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the Official Public records of Smith County, Texas.

Candice Turner
Notary Public in and for the State of Texas



APR 24 2000

JUDY CARNES
COUNTY CLERK, Smith County, Texas
Joyanna Mack
Deputy

