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DECLARATION 21 E 651048 - A PD 16.50

OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

134-11-2557

CANDLELIGHT OAKS VILLAGE

COPY

THIS DECLARATION, made on the date hereinafter set forth by Tyard, Corporation, a Texas Corporation, hereinafter referred to as "Declarant".

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in Houston, County of Harris, State of Texas, which is more particularly described as:

A tract of land in the Samuel McClelland Survey, Abstract 544, Harris County, Texas, which has been subdivided and platted as Candlelight Oaks Village, as shown by the map or plat thereof recorded in Volume 222*, Page 1, of the Map Records of Harris County, Texas.

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

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Candlelight Oaks Village Maintenance Fund, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee

*This document is being rerecorded to show the correct volume of the recordation on Candlelight Oaks Village, which is Volume 226, Page 1 of the Map Records of Harris County, Texas.

FILED FOR RECORD 9:00 A.M.

JAN 28 1976

[Signature]

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simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described as follows: None (Public Streets).

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Tyard Corporation, doing business as Candlelight Oaks Village, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of each class of members has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on May 1, 1980.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area.

Section 3. Maximum Annual Assessment. Until January 1, 1975 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment shall be One Hundred Dollars (\$100.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of the votes of each class

of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Annual and special assessments shall be fixed at a uniform rates as follows:

- 1) Owners as defined herein shall pay 100% for both annual and special assessments;
- 2) The Declarant and its successors as defined herein shall pay 50% of both annual and special assessments attributable to their lots.

Section 7. Date of Commencement of Annual Assessments: Due Dates.

The annual assessments provided for herein shall commence as to all lots on the first day of the month following the conveyance of a Lot to an Owner for use as his residence. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 6 percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability

for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages.

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. All properties dedicated

to and accepted by, a local public authority and all properties owned by a charitable or non profit organization exempt from taxation by the laws of the State of Texas shall be exempt from the assessments created herein, except no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made nor shall any major landscaping be undertaken until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association or by an architectural control committee composed of three (3) or more representatives appointed by the Board.

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In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been complied with.

ARTICLE VI

USE RESTRICTIONS AND EASEMENTS

Section 1. No lot within the Subdivision shall be used except for residential purposes; provided, however, that until the Declarant, its successors or assigns shall have sold all of the lots in the subdivision, a field office may be located and maintained on one lot by Declarant, its successors, assigns or agents, the location of which field office may be changed from time to time as the lots are sold, and a builder constructing a residence or residences in the Subdivision may place a field office on a lot or lots during said construction, provided that the approval of the Declarant is first had and obtained. The term "residential purposes" as used herein excludes hospitals, clinics, apartment houses, boarding houses, hotels and all commercial and professional uses; all such uses of property in the Subdivision are hereby prohibited. No building shall be erected, altered, placed or permitted to remain on any lot other than one attached or detached single family dwelling not to exceed two stories in height (a "story" is defined as not to exceed twelve (12) feet) together with private garage space for not more than three (3) cars.

Section 2. It is hereby specifically provided that dwellings constructed on lots in the Subdivision may be "lot line" houses and may be built as close to the property line as possible and an easement is hereby granted each lot owner to go onto adjoining lots as often as is reasonably necessary for purposes of maintenance, reconstruction, and repair of the exterior walls and roof of his dwelling. It is further provided that each lot or parcel in the Subdivision shall be

subject to an easement for minor (one foot or less) encroachments created by construction, setting, overhangs, brick ledges, fences or other protrusions constructed by the Declarant or lot owner as long as it stands, and shall and does exist. In the event any dwelling in the subdivision is partially or totally destroyed, and then rebuilt, the owners affected agree that minor encroachments onto adjacent property due to construction, reconstruction or repair shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 3. It is hereby specifically provided that dwellings constructed on lots in the Subdivision may be "attached dwellings" which share a common wall with the dwelling on the adjacent property and such wall shall be a "party wall", its use shall be governed by Article VII below.

Section 4. No residential structure shall be erected or placed on any building lot or plot in the Subdivision having an area of less than one thousand (1,000) square feet or a width of less than twenty-five (25) feet on the side facing the front property line.

Section 5. No noxious or offensive trade or activity shall be carried on upon any lot, nor anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No machinery, appliances, mechanical equipment, boats, or trailers of any kind shall be placed, operated or maintained on the driveway of any lot or within view of any street. The aforesaid prohibition shall in no way limit the general applicability of any other provisions of this paragraph or any other provisions of these restrictive covenants.

Section 6. No trailer (whether permanently immobilized or connected to utilities or not), basement, tent, shack,

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garage, barn or other outbuilding located or erected on the tract shall at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

Section 7. The owner of each lot on which permanent improvements are being constructed shall, prior to the time that such improvements are occupied (either temporarily or permanently), connect such improvements to the public water and sewage facilities, at the owner's expense.

Section 8. No residential structure shall be placed on any lot unless the floor area, exclusive of open porches and garages, of its living area has a minimum of: (a) one thousand (1,000) square feet, if the residential structure is one (1) story in height; (b) one thousand two hundred (1,200) square feet, if the residential structure is one and one-half (1-1/2) stories in height, or (c) one thousand four hundred (1,400) square feet, if the residential structure is two (2) stories in height.

Section 9. The exterior walls of all residences shall be at least fifty-one percent (51%) brick, brick veneer, stone, stone veneer, concrete or other masonry type construction, but the Board of Directors of the Association or architectural control committee as authorized by Article V hereof, shall have the power to waive the masonry requirement and allow the erection of a residence of all wood panel walls.

Section 10. Easements for installation and maintenance of utility and drainage facilities are reserved as shown on the recorded plat.

Section 11. No lot in the Subdivision, or any part thereof, shall be used for any purpose in violation of the laws of the State of Texas, or of the United States, or of police, health, sanitary, building or fire code regulation relating to or affecting the use, occupancy or possession of any of the said sites. All building lots and plots are subject to the rules and regulations pertaining to and available from all

governmental bodies having jurisdiction over the development of building lots and plots, construction of buildings and operation of all public facilities within the subdivision.

Section 12. No sign of any kind shall be displayed to the public view except one sign or not more than five (5) square feet, advertising any lot or plot for sale or rent, or signs used by a builder or the Declarant to advertise the property during the construction and sales period and a sign or signs erected at the entrance(s) of the Subdivision as permanent identification thereof.

Section 13. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot in the Subdivision.

Section 14. No lot shall be used or maintained as a dumping ground for rubbish. No trash, garbage or other waste shall be kept except in sanitary containers and shall be collected at street area. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. Each owner of a lot shall be responsible for the maintenance of his property and any improvements thereon. Lots shall be kept free of refuse and property mowed in order to preserve the appearance of the subdivision. The Board of Directors, at its sole discretion, may determine whether or not any lot or the building thereon is being maintained in accordance with these Restrictions. If it is determined that proper maintenance is not being accomplished, the Board of Directors shall have the right to cause such reasonable maintenance as it determines necessary to be done, and may assess the owner of

said property for the cost. Said assessment shall be enforceable as if it were an annual maintenance fund assessment as herein provided.

Section 15. No resident of any lot shall permit any dog, cat or other domestic pet under his ownership or control to leave such resident's lot unless leashed and accompanied by a member of such resident's household. The raising or keeping of hogs, horses, poultry, fowls or other livestock on any part of the subdivision is prohibited.

Section 16. All private swimming pools shall be completely enclosed by a solid wood fence-type enclosure not less than six feet (6') high.

Section 17. Each lot owner as herein provided shall erect and maintain, at his expense, and located between the front property line and building setback line, a pole type gas or electric yard light as approved by the Board of Directors or the architectural control committee, and in addition shall install and maintain at his expense a sidewalk 4' wide. and of the type and quality approved by the Federal Housing Administration and must be met and adjoin abutting sidewalks.

Section 18. Any violation of any of the covenants, agreements, reservations, easements, and restrictions contained herein shall not impair or affect the rights of any mortgagee, trustee, or guarantor under any mortgage or deed of trust, or the assigns of any mortgagee, trustee, or guarantor, under any such mortgage or deed of trust outstanding against the said property at the time that the covenants, agreements, reservations, restrictions, or covenants may be violated.

Section 19. Underground single phase electric service shall be available to all residential building in the subdivision, and the metering equipment shall be located on the exterior surfaces of walls at points to be designated by the utility company. The utility company furnishing the service shall have a two foot (2') wide easement along and centered on the underground electric power service conductors installed from the utility company's easement to the designated point of service on the structure for

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said property for the cost. Said assessment shall be enforceable as if it were an annual maintenance fund assessment as herein provided.

Section 15. No resident of any lot shall permit any dog, cat or other domestic pet under his ownership or control to leave such resident's lot unless leashed and accompanied by a member of such resident's household. The raising or keeping of hogs, horses, poultry, fowls or other livestock on any part of the subdivision is prohibited.

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Section 19. Underground single phase electric service shall be available to all residential building in the subdivision, and the metering equipment shall be located on the exterior surfaces of walls at points to be designated by the utility company. The utility company furnishing the service shall have a two foot (2') wide easement along and centered on the underground electric power service conductors installed from the utility company's easement to the designated point of service on the structure for

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service and maintenance of its conductors and metering equipment. For so long as such underground service is maintained, the electric service to each dwelling shall be uniform and exclusively of the type known as single phase, 120/240 volt, 3 wire, 60 cycle alternating current. Easements for the underground service may be crossed by driveways, walkways and patio areas, provided the Declarant or Builder makes prior arrangements with the utility company furnishing such service. Such easements for the underground service shall be kept clear of all buildings and neither Declarant nor utility company using the easement shall be liable for any damage done by either of them or their assigns, their agents, employees, or servants to shrubbery, trees, flowers, or other improvements of the owner located on the land covered by said easements.

ARTICLE VII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon which the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for

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a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrator shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE VIII

GENERAL PROVISIONS

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

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

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded,

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after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation.

(a) Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

(b) Additional land within the area described in Volume 222*, Page 1 of the Deed* Records of Harris County, Texas, may be annexed by the Declarant without the consent of members within five (5) years of the date of this instrument provided that the FHA and the VA determine that the annexation is in accord with the general plan heretofore approved by them.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration of the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions, and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 29th day of July, 1975.

TYARD, INC.

BY: [Signature]

RECORDER'S MEMORANDUM:
The additions on this instrument were present at the time instrument was filed and recorded.

ALLIED BANK OF TEXAS

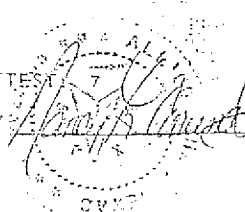
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ATTEST:

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ATTEST:

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*This document is being rerecorded to show the correct volume of the recordation on Candlelight Oaks Village, which is Volume 226, Page 1 of the Map Records of Harris County, Texas. The reference was made to the Deed Records incorrectly as