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DECLARATION OF

512-39-1777

COVENANTS AND RESTRICTIONS

FOR

03/31/97 200381747 S381693

\$75.00

WATERFORD PARK

THIS DECLARATION (the "Declaration") is made this 25th day of March, 1997, by WATERFORD PARTNERS, LTD., a Texas Limited Partnership ("Declarant").

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RECITALS

A. Declarant is the owner of certain real property situated in the City of Houston, Harris County, Texas, as more particularly described in Exhibit "A", attached hereto and made a part hereof and desires to create on the Property a residential community with residential lots, open spaces and other common facilities for the benefit of the Owners, as hereinafter defined.

B. Declarant desires to provide for the efficient preservation and maintenance of open spaces and other common facilities. To this end, Declarant desires to impose upon the Property the covenants, conditions, restrictions, easements, charges and liens contained in this Declaration and to delegate and assign to the Association (hereinafter defined) the powers of maintaining and administering the community Property and facilities in accordance with the terms of this Declaration.

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NOW, THEREFORE, Declarant, for an in consideration of, and expressly for the benefit of, and to bind, its successors in interest, does hereby agree and declare that the Property, including any additions thereto as may hereafter be made hereof, shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens sometimes referred to collectively as the (the "Covenants") hereinafter set forth which shall run with the land and shall be binding upon all parties having any right, title, or interest in or to the Property, or any part thereof, and their heirs, successors, representatives and assigns. The covenants, conditions, restrictions, easements, charges and liens hereinafter set forth are covenants running with the Property at law as well as in equity.

ARTICLE I

DEFINITIONS

The following words when used in this Declaration shall have the following meanings:

1 *Hold Chicago Title*

"Architectural Committee" shall mean the New Construction Committee or the Modifications Committee whichever is applicable as described in Article IX of this Declaration.

"ACC" shall mean and refer the Architectural Control Committee described in Article IX of this Declaration.

"Assessments" shall mean and refer to the regular annual assessments, the special assessments and the default assessments levied for the Association as determined by the Board of Directors.

"Association" shall mean and refer to the OLDE OAKS COMMUNITY IMPROVEMENT ASSOCIATION; INC., a Texas non-profit corporation, its successors and assigns.

"Board of Directors" or "Board" shall mean the governing body of the Association, the elections and procedures of which shall be as set forth in the Articles of Incorporation and the Bylaws of the Association.

"Builder" shall mean and refer to any person or entity undertaking the construction of a residence on a Lot.

"Common Property" shall mean and refer to all property, real or personal, owned or held by the Association for the common use and enjoyment of the Members of the Association, including but not limited to property owned by a governmental entity which the Association may elect to maintain.

"Declarant" shall mean and refer to WATERFORD PARTNERS, LTD., and its successors and assigns, if any such successor or assignee shall receive by assignment from WATERFORD PARTNERS, LTD., of all or a portion of its rights hereunder as such Declarant, by an instrument expressly assigning such rights as Declarant to such successor or assignee.

"Dwelling Unit" shall mean and refer to any building or portion of a building situated upon the Property which is designed and intended for use and occupancy as a residence by a single person, a couple, a family or a permitted family size group of persons.

"Institutional Mortgage" shall mean a mortgage or deed of trust creating a first lien on a Lot which is held by a third party institutional lender.

"Lot" or "Lots" shall mean, with respect to any Property for which a subdivision map has been recorded in the map or plat records of Harris County, Texas, each lot shown on such recorded subdivision map which is or is to be improved with a residential dwelling.

"Member" shall mean and refer to each Owner as provided herein in Article II of this Declaration.

"NCC" shall mean and refer to the New Construction Committee as described in Article IX of this Declaration.

"Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot but, notwithstanding any applicable theory of mortgages or other security devices, shall not mean or refer to any mortgagee or trustee under a mortgage or deed of trust unless and until such mortgagee or trustee has acquired title pursuant to foreclosure or any conveyance in lieu of foreclosure. Declarant shall be deemed an Owner of each unplatted Lot.

"Property" shall have the meaning given to it in Paragraph A of the Introductory Statement above.

"Resident" shall mean and refer to each person (not otherwise an Owner or Member) authorized by an Owner to reside within such Owner's Dwelling Unit.

"Two-Thirds Member Vote" shall mean the approval of two-thirds (2/3) of all Members (regardless of class) entitled to vote who either (i) are voting in person or by proxy at a meeting duly called for this purpose and at which the necessary quorum exists, or (ii) execute a written consent in lieu of a meeting for such purpose.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION;

2.1 **Membership.** Each and every Owner shall automatically be and must remain a Member of the Association, subject to the terms of this Declaration, the Articles of Incorporation and the Bylaws of the Association and the Association's rules and regulations. Membership of an Owner in the Association shall be appurtenant to and may not be separated from the interest of such Owner in and to a Lot. Ownership of a Lot shall be the sole qualification for being a Member; provided, however a Member's privileges in the Common Property may be regulated or suspended as provided in this Declaration, the Bylaws of the Association and/or the Association's rules and regulations. Any person or entity that holds an interest in and to a Lot merely as security for the performance of an obligation shall not be a Member until such time as the holder or its successor acquires title to the Lot through foreclosure or conveyance in lieu thereof.

2.2 **Transfer.** Membership of an Owner in the Association may not be severed from or in any way transferred, pledged, mortgaged or alienated except upon the sale

or assignment of said Owner's interest in a Lot and then only to the purchaser or assignee as the new Owner thereof. Such membership shall not be severed by the encumbrance by an Owner of a Lot. Any attempt to make a prohibited severance, transfer, pledge, mortgage or alienation shall be void and of no further force or effect. Owners shall notify the Association of any transfer of the fee title to a Lot. Such transfer shall automatically operate to transfer the membership to the new Owner thereof. In the event an Owner should fail or refuse to provide written evidence of transfer of the membership in the Association registered in such Owner's name to the transferee of such Owner's interest in a Lot, the Association shall have the right to record the transfer upon the books and records of the Association.

2.3 Voting Rights. The Association shall have one class of voting membership. Members shall be entitled to one vote for each Lot in which they hold the interest required for membership. When more than one person holds such interest or interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any such Lot.

ARTICLE III

PROPERTY RIGHTS IN THE COMMON PROPERTY

3.1 Members' Easements of Enjoyment. Subject to the provisions of Section 3.3 of this Article, every Member and every Resident shall have a right and easement of use and enjoyment in and to the Common Property and such easement shall be appurtenant to and shall pass with the title to every Lot; provided however, such easement shall not give such person the right to make alterations, additions or improvements to the Common Property.

3.2. Title to the Common Property. The Declarant shall convey the fee simple title to the Common Property to the Association, or in the case where easements constitute part of the Common Property, Declarant shall assign and transfer such easements to the Association, in each case free and clear of all encumbrances and liens other than the lien of current taxes and assessments not in default and utility easements and mineral interests outstanding and of record in Harris County, Texas.

3.3. Extent of Members' Easement. The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) The right of the Association to prescribe regulations governing the use, operation and maintenance of the Common Property (including limiting the number of guests of Members);

(b) The right of the Association to take such steps as are reasonably necessary to protect the Common Property against foreclosure;

(c) The right of the Association, as provided in its Bylaws, to suspend the voting rights of any Member and to suspend the right of any individual to use any of the Common Property for any period during which any assessment against a Lot owned by such Member or resided upon by such individual remains unpaid, and for any period not to exceed sixty (60) days for an infraction of its rules and regulations;

(d) The right of the Association to charge reasonable admission and other fees for the use of recreational facilities on the Common Property; and

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

4.1 Creation of the Lien and Personal Obligation for Assessments. Declarant, for each Lot owned by it within the Property, hereby covenants and agrees, and each purchaser of a Lot (by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance), for each Lot owned by any such Owner, hereby covenants and agrees and shall be deemed to covenant and agree to pay to the Association (or to a mortgage company or other collection agency designated by the Association): (a) annual assessments or charges, to be paid in installments as the Board of Directors of the Association may elect, (b) special assessments for capital expenditures, such assessments to be fixed, established and collected from time to time as hereinafter provided, and (c) default assessments which may be assessed against an individual Owner to reimburse the Association for extra maintenance and repair costs incurred as a result of the willful or negligent acts or omissions of such Owner, or the Owner's family, agents, guests and invitees, such default assessments to be fixed, established and collected from time to time as hereinafter provided. The regular annual assessments, special assessments and default assessments, together with such interest thereon and costs of collection thereof as hereinafter provided (collectively "Assessments"), shall be a charge and continuing lien upon each Lot against which each such Assessment is made. Each such Assessment, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall also be the continuing personal obligation of the person who was the Owner of such Lot at the time when the Assessment became due. The annual assessments shall be payable as provided in this Article IV.

4.2 Purpose of Assessments. The Assessments levied by the Association shall be used: (i) for the purposes of promoting the recreation, health, safety and welfare of the residents of the Property, and in particular for the improvement and maintenance of landscaped areas or other Property, services and facilities devoted to

