

10116

2010 RESTATED, AMENDED AND CONSOLIDATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
IDLEWILDE ESTATES SECTIONS ONE, TWO AND FOUR, POLK COUNTY, TEXAS

THE STATE OF TEXAS \*

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF POLK \*

WHEREAS, Original Restrictions for Section 1 of the Idlewilde Estates Subdivision, dated June 16, 1967, were executed by "Roy R. Smith, Owners". The Original Deed Restrictions were filed at Vol. 223, pages 394, et seq. with the Polk County Clerk's Deed Records, and are referenced herein as "1967 Original Restrictions 1". These original Restrictions provided the following right to amend:

1. These covenants are to run with the land and shall be binding upon all parties and all persons claiming under them until June 1st, 2000, A. D., at which time said covenants shall be automatically extended for successive periods of Ten (10) Years unless an instrument signed by a majority of the then owners of the tracts has been recorded, agreeing to change said covenants in whole or in part;

WHEREAS, on June 24, 1971 Roy R. Smith executed a document entitled "Amendment To Restrictions in Idlewilde Estates, Section 1". This document was filed at Vol. 252, pages 524, et seq., Polk County Clerk's Deed Records. This document amended Deed Restriction No. 22 by adding a subordination clause; and

WHEREAS, on May 18, 1971 Original Restrictions for Sections 2 and 4, were executed by "RALS Properties, Inc., Roy R. Smith, President", and are referenced herein as "1971 Original Restrictions 2&4". The Sections 2 & 4 Original Deed Restrictions were filed at Vol. 255, pages 524, et seq. with the Polk County Clerk's Deed Records. These restrictions provided a right to amend as follows:

1. These covenants are to run with the land and shall be binding upon all parties and all persons claiming under them until June 1st, 2000, A. D., at which time said covenants shall be automatically extended for successive periods of Ten (10) Years unless an instrument signed by a majority of the then owners of the tracts has been recorded, agreeing to change said covenants in whole or in part; and

WHEREAS, on December 29, 1975 Articles of Incorporation were filed with the Texas Secretary of State for the "Idlewilde Estates Civic Association, Inc." and a Certificate of Incorporation issued on same date; and

WHEREAS, on May 24, 1982 "Allied Bank of Texas", shown as the successor in interest to RALS Properties, Inc., executed and filed a document entitled "Supplemental Declaration of Covenants, Conditions and Restrictions for Certain Lots Located in Idlewilde Estates Sections One, Two and Four", referenced herein as the "1982 Supplemental Restrictions". This document was filed on June 16, 1982 at Vol. 414, pages 377 et seq., Deed Records of Polk County, Texas. This document appears to only impress the property owned by Allied Bank of Texas with these "Supplemental Restrictions":

"WHEREAS, Declarant, as the sole owners of the Lots covered hereby has the right to impose additional restrictions, reservations, covenants and conditions on such lots which it deems

81101

reasonable, necessary or desirable". These "1982 Supplemental Restrictions", in Article XI, Section 2, established a new amendment procedure, which would apply only to the lots affected by the "1982 Supplemental Restrictions":

The covenants, conditions, restrictions, reservations, liens and charges set forth in this Declaration of Covenants, Conditions and Restrictions shall run with the land and shall be binding upon and inure to the benefit of the Association, all Owners, their respective legal representatives, heirs, successors and assigns for a term of thirty (30) years from the date this declaration of Covenants, Conditions and Restrictions is filed with the County Clerk of Polk County, Texas for recordation in the Deed Records of Polk County, Texas, after which time said covenants, conditions, restrictions, reservations, liens and charges shall be automatically extended and renewed for successive periods of ten (10) years each unless prior to said renewal date an instrument, signed and acknowledged by the then Owners of not less than one-half (1/2) of the total number of the Lots, is filed for record with the County Clerk or Polk County, Texas, altering, rescinding or modifying said covenants and restrictions in whole or in part as of said renewal date. Notwithstanding anything to the contrary herein contained, it is expressly understood and agreed that the Owners of one-half (1/2) of the total number of Lots shall always have the power and authority to amend this Declaration of Covenants, Conditions and Restrictions and such Amendment shall become effective on the date an instrument is signed and acknowledged by the then Owners of not less than one-half (1/2) of the total number of Lots is filed for record in Polk County, Texas, so amending this Declaration of Covenants, Conditions and Restrictions; and

WHEREAS, on May 27, 1983 Articles of Incorporation for the "Idlewilde Estates Property Owners Association, Inc." were filed with the Texas Secretary of State and a Certificate of Incorporation was issued on same date; and

WHEREAS, on November 15, 1990 "Articles of Merger Domestic Corporations" was filed with the Secretary of State for the State of Texas, whereby the Idlewilde Estates Civic Association, Inc. and the Idlewilde Estates Property Owners Association, Inc. were merged with the name of the surviving corporation being the Idlewilde Estates Property Owners Association, Inc., (the "Association"); and

WHEREAS, on April 27, 1997, a document entitled "Restriction Amendment for All Lots Located in Idlewilde Estates Section One, Two, and Four" was filed with the Polk County Clerk, at Vol. 1077, page 129, et seq., amending Article VIII, Section 5 of the 1982 Supplemental Restrictions; and

WHEREAS, on March 21, 2005, by that certain "Judgment of the Court" entered in Cause No. CIV22138, in the 258th Judicial District Court of Polk County, Texas, the 258th Judicial District Court, by written opinion of Judge Elizabeth Coker, it was judicially declared that the procedure for voting as a member of the POA, set forth by the 1982 Restrictions, had been abandoned and that for voting on POA business there was only one (1) vote per "family unit", as provided by the Bylaws of the Association; and

WHEREAS, the Board of Directors, upon vote of the membership of the Association at an

annual meeting of the members held on April 24, 2010, has determined that it is in the best interest of the Association that the various restrictions identified above and applicable to the property in Idlewilde Estates subdivision be restated, amended, and consolidated into one document to avoid any confusion or issue in the future concerning the validity and applicability of the deed restrictions for Sections 1, 2 and 4 of the Idlewilde Estates Subdivision and establish a uniform method of future amendment to restrictions; and

WHEREAS, the Board of Directors of the Association has determined that the restrictions referenced above are necessary for purpose of enhancing and protecting the value, desirability and attractiveness of the property in the Subdivision, and should be amended to reconcile any conflict between the various documents establishing restrictions for the Idlewilde Estates Subdivision, Sections 1, 2 and 4, in Polk County, Texas Subdivision and establish a uniform method of future amendment to restrictions;

#### **ARTICLE I Definitions**

1. "Association" shall mean and refer to Idlewilde Estates Property Owners' Association, Inc., a Texas non-profit corporation.
2. "Board of Directors" shall mean and refer to the directors elected by the Members of the Association as provided for by the Bylaws of the Association.
3. "Common Area" shall mean and refer to any property owned by the Association for the use and enjoyment of the members of the Association and includes designated Reserve Areas.
4. "Lot" shall mean and refer to the lots set forth on the respective plats for Sections 1, 2 and 4, Idlewilde Estates Subdivision, filed with the County Clerk of Polk County, Texas.
5. "Living Unit" shall mean and refer to any improvements on a Lot which are designed and intended for occupancy and use as a residence.
6. "Occupied Lot" shall mean and refer to any Lot on which there is a Living Unit.
7. "Member" shall mean and refer to every person or entity who is an "owner" as defined herein. A Member's right shall be as defined by these Restrictions and the Bylaws of the Association.
8. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. However, the term "Owner" shall include any mortgagee or lien holder who acquires fee simple title to any Lot through judicial or non-judicial foreclosure.
9. "Restrictions" as referenced herein refers to these 2010 Restated, Amended and Consolidated Restrictions.
10. "Subdivision" means the Idlewilde Estates Subdivision, Sections 1, 2, and 4, and the Common and Designated Reserves pursuant to the plat of each respective section on file with the Polk County Clerk.

11. Bylaws shall refer to the Governing Documents of the Idlewilde Property Owners Association approved April 24, 1999 and on file with the Polk County Clerk and as may be amended from time to time by the Association evidenced by the amended Bylaws being filed with the Polk County Clerk and/or as set forth in a Management Certificate filed with the Polk County Clerk.

**ARTICLE II**  
**Property Owners Association, Liability, and Insurance**

1. The Idlewilde Estates Property Owners' Association, Inc.:

(a) Each person(s) acquiring a Lot in the Subdivision shall automatically become a member of the Association, and the Association shall be a property owners association as defined by the Texas Property Code. Each member will abide by the rules of the corporation and the covenants and restrictions set forth in this document. The Association shall have the right, but not the sole responsibility, and authority to uphold these restrictions and covenants, and provide for the maintenance and upkeep for the common areas of the subdivision. The Association, by and through its Board of Directors, shall have the authority to appoint such committees as determined by the Board of Directors to be in the best interest of the Association.

(b) Any lot owner who brings a lawsuit against the Association alleging a violation of any duty of the Association to enforce the deed restriction, or alleging that the Association, or any director, officer and/or agent of the Association, shall be liable to the Association for any legal fees and costs incurred in defending such lawsuit.

(c) Notwithstanding any provision to the contrary, nothing herein or in the plats above referenced shall be deemed, interpreted or construed as imposing any obligation or obligations whatever upon the Association, and the Association shall not be liable under any provisions hereof or thereof for any charge, assessment, breach, act or omission to act.

(d) The Association shall have the same authority over the Common Area, and no structure or improvement shall be placed thereon except as a community project and upon the approval of the Association. The Board of Directors shall have the authority to adopt rules and regulations concerning the Common Area.

2. Enforcement:

(a) Subject to the provisions of the (d) of this paragraph, if any person or entity, as defined hereinafter, whether or not lawfully in possession of any real property hereunder, shall either (i) violate or attempt to violate any restriction or provision herein or (ii) suffer to be violated (with respect to the real property in which such person or entity has rights other than the rights granted by this sentence) any restriction or provision herein, it shall be lawful for the Association and/or any person or entity, as defined hereinafter, possessing rights with respect to any real property hereunder, to prosecute any proceedings at law or in equity against any such person or entity violating, attempting to violate and/or suffering to be violated any restriction or provision herein to (i) prevent such violation, (ii) recover damages of other dues for such violation, and (iii) recover court costs and reasonable attorney's fees incurred in such proceedings. "Person or entity", as used in the immediately preceding sentence hereof, shall include, but shall not be

limited to, all owners and purchasers of any real property hereunder, as well as all heirs, devisees, assignees, legal representatives and other persons or entities who acquire any of the rights (with respect to the real property hereunder) of the owner or purchaser of any real property hereunder.

(b) The Association has the right, but not the exclusive duty, to take action to enforce any violation of these Restrictions. Any property owner also has the right to enforce any violation of these deed restrictions.

(c) Neither the directors nor officers of the Association, shall have any liability or responsibility at law nor in equity on account of the enforcement of, or on account of the failure to enforce, these restrictions. An exercise of discretionary authority by the Association concerning a restrictive covenant is presumed reasonable unless the court determines by a preponderance of the evidence that the exercise of discretionary authority was arbitrary, capricious, or discriminatory.

(d) Notwithstanding any other provisions hereof, the Association shall not be liable nor subject to any proceeding at law or in equity on account of any violation or attempted violation of any restriction or provision herein which occurs during such time as there is in force a contract to purchase the property where such violation or attempted violation takes place.

3. Liability of Owners to Owners' Families and Guests. All lot owners shall be liable for any injury to themselves or any of their family or guests while in or on any of the lakes, ponds or playground or property of said subdivision or Association, and the Association shall not be liable for any such injury. All lot owners agree to indemnify and hold harmless the Association, its officers, directors and employees from any damages resulting to their family or guests while in or on any of the lakes, ponds or playground or property of said subdivision or Association.

4. The Association, through the board of Directors, or its duly authorized agent, shall have the authority to obtain such insurance coverage as it deems reasonable.

### ARTICLE III

#### Property Rights in Common Area and Designated Reserves

1. Owners Easement of Access and Enjoyment: Every Owner shall have an easement of access and a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees if such are deemed necessary for the use of any recreational facilities situated within the Common Area;

(b) The right of the Association to suspend a Member's voting rights and right to use the recreational and other facilities owned or operated by the Association, for any period during which any assessment against his Lot or any other sum due the Association by him remains unpaid; and, for a period not to exceed thirty (30) days for any infraction of its published rules and regulations;

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be approved by a majority of the members present at a publicized meeting.

2. Delegation of Use: Any Owner may delegate in accordance with the Bylaws of the Association, his right of enjoyment to the Common Area and facilities to members of his family,

his tenants, or contract purchasers. The Association, for each Lot owned within the Subdivision, hereby covenants, and each Owner of any Lot, by acceptance of a Deed therefore, whether it shall be expressed in the Deed or other evidence of the conveyance, is deemed to covenant that any lease executed on a Lot shall be in writing and contain provisions binding any lessee there under to the terms of this Declaration of Covenants, Conditions and Restrictions and any rules and regulations published by the Association applicable to the Lot.

3. Title to the Common Area: Legal title to the Common Area shall remain undivided and shall at all times be owned by the Association or its successors, it being agreed that this provision is necessary in order to preserve the rights of the owners with respect to the operation and management of the Common Area. Notwithstanding the above, the Association reserves the right to grant, convey, dedicate or reserve easements over, on or under the Common Area.

#### **ARTICLE IV Membership and Voting Rights**

1. Membership: Every person or entity who is a record owner of a fee or undivided fee interest in a Lot, including contract sellers, shall hold a membership in the Association. The foregoing is not intended to include persons or entities who hold an interest in a Lot merely as security or the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Ownership of a Lot shall be the sole qualification for membership. Any mortgagee or lien holder who acquires title to any Lot, through judicial or non-judicial foreclosure, shall be a Member of the Association.

2. Voting rights: The voting rights of Members shall be as set forth by the Bylaws of the Association.

#### **ARTICLE V Covenant for Maintenance Assessments**

1. Creation of the Lien and Personal Obligation for Assessments: Each Lot shall be subject to the assessments hereinafter provided for, and each Owner of any Lot which shall be and/or hereafter becomes assessable, by acceptance of a Deed therefore, whether or not it shall be expressed in the Deed or other evidence of the conveyance, is deemed to covenant and agree to pay the Association the following:

- (a) Annual maintenance fee;
- (b) Special assessments for capital improvements; and
- (c) Any other sums to the extent that are specifically provided for elsewhere in this instrument. Such assessments or charges are to be fixed, established and collected as hereinafter provided. These charges and assessments, together with such interest thereon, late fees, and cost of collection thereof, as hereinafter provided, shall be a charge on the land and shall be secured by a continuing Vendor's Lien upon the Lot against which such assessments or charges are made.

2. Purpose of Assessments: The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Owners. Without limiting the foregoing, the total assessments accumulated by the Association, insofar as the same may be sufficient, shall be applied toward anything necessary or desirable in the opinion of the Board of Directors of the Association to keep and maintain the Lots or, at its

discretion, other property in the Subdivision, neat and good order, or which they consider of general benefit to the Owners. It is understood that the judgment of the Board of Directors of the Association in establishing annual assessments, special assessments and other charges, as provided for by these Restrictions, and in the expenditure of said funds shall be final and conclusive so long as said judgment is exercised in good faith, and that any special assessment be charged in the same manner as specified by the voting rights of members.

3. **Basis and Maximum Level of Annual Maintenance Fees:** The maximum annual maintenance fee shall be One Hundred Thirty two and No/100 Dollars (\$132.00) per Lot. The maximum annual maintenance fee may be increased by the Board of Directors of the Association effective January 1 of each year, in conformance with the rise, if any, in the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for the preceding year without a vote of the Members of the Association. The maximum annual maintenance fee may be increased above that established by the Consumer Price Index formula only by the approval of a majority of the members of the Association at an annual meeting or special meeting at which a quorum is present.

4. **Special Assessments for Capital Improvement:** In addition to the annual maintenance fee authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, or unexpected repair or replacement of a particular capital improvement located upon the Common Area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the written approval of a majority of the property owners present at a publicized meeting as specified in the Association Bylaws.

5. **Rates of Assessment:** Both the annual maintenance fee and Special assessments on all Lots, must be fixed at uniform rates.

6. **Date of Commencement and Determination of Annual Maintenance Fee:** The annual maintenance fee provided for herein shall commence as to all Lots on January 1, 2011. On or before the last day of February in each year, the Board of Directors of the Association shall recommend the amount of the annual maintenance fee to be levied against each Lot in the next calendar year. Written notice of the figure at which the Board of Directors of the Association has recommended the annual maintenance fee shall be sent to every Owner whose Lot is subject to the payment thereof together with the Notice of Annual Meeting of the Association. Annual maintenance fees shall be due and payable annually in advance on January 1st of the applicable year or as directed by the Board of Directors of the Association.

7. **Effect of Nonpayment of Assessments; Remedies of the Association:** Any assessments or fee which are not paid when due shall be delinquent. If an assessment or fee is not paid within thirty (30) days after the due date, same shall bear interest from the due date until paid at the rate of ten percent (10%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, and/or judicially foreclose the lien herein retained against the Lot. Interest, costs and reasonable attorney's fees incurred in any such action shall be added to the amount of such assessment or fee. Each such Owner, by his acceptance of a Deed to a Lot, hereby expressly vests in the Association or its agents, the right and power to bring all actions against such Owner personally for the collection of such assessments and fees as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including judicial foreclosure by an action brought in the name

of the Association. No Owner may waive or otherwise escape liability for the assessments and fees provided for herein by non-use of the Common Area or abandonment of his Lot.

8. Subordination of the Lien to Mortgages: As hereinabove provided, the title to each Lot shall be subject to the Vendor's Lien securing the payment of all assessments and fees due the Association, but this Vendor's Lien shall be subordinate to any valid purchase money lien or mortgage covering a Lot. Sale or transfer of any Lot shall not affect this Vendor's Lien unless such a sale is conducted pursuant to a judicial or non-judicial foreclosure under any valid purchase money lien or mortgage. Such a foreclosure sale shall extinguish the Vendor's Lien securing such assessment or fee as to payments which became due prior to such sale or transfer, however, no sale or transfer shall relieve such Lot Owner from any assessments and fees due prior to such sale or transfer, nor the new Owner thereof from personal liability for any charges or fees thereafter becoming due or from the lien thereof. In addition to the automatic subordination provided hereinabove, the Association, in the discretion of its board of Directors, may subordinate the lien securing any assessment or fee provided for herein to any other mortgage, lien or encumbrance, subject to such limitations, if any, as such Board may determine.

9. If an Owner sells any Lot, the Owner is to notify the Association, within ten (10) days of the sale, of the name and address of the buyer so that the aforesaid assessments may be collected from the new owner.

10. All conveyances of lots shall be subject to such maintenance charge and by acceptance of his deed or contract for deed, each purchaser consents and acknowledges that the Association shall have no obligation to furnish maintenance or do any other thing described in this paragraph other than from maintenance funds.

11. Maintenance fees not paid by January 31 will be charged a collection fee as may be otherwise established by the Board of Directors by resolution duly adopted.

## **ARTICLE VI**

### **Architectural Control**

1. Architectural Control Committee: There is hereby created an Architectural Control committee (herein referred to as the "Committee") comprised of three members of the Association appointed by the Board of Directors. Any two (2) of the members of the Committee shall have the full authority and power to act for the Committee. In the event any of the said members of the Committee should die, resign, refuse to act, or become unable or ineligible to act, the Board of Directors shall designate a successor. No member of the Committee or its designated representative(s), as herein defined, shall be entitled to any compensation for services performed pursuant to this Article. Should the Committee require the services of architects, engineers, attorneys or other consultants to assist the Committee in carrying out its duties hereunder, the Board of Directors must approve the services of such consultants.

2. Duties and Powers: The purpose of the Committee is to protect the environmental and architectural integrity of the Subdivision in accordance with the provisions of this Declaration. No building, fence, bulkhead, dock, pier, wall or other structure or improvement of any nature shall be placed, constructed, erected or maintained on any Lot, nor shall any exterior addition to or change or alteration therein be made until the construction plans and



specifications shall have been submitted to and approved in writing by the Committee as to conformity and harmony of external design and location in relation to surrounding structures and topography. Any plans and specifications to be submitted shall specify, in such form as the Committee may reasonably require, the location upon the lot where the improvements are to be placed and the dimensions thereof as well as appropriate information concerning the structural, mechanical, electrical and plumbing details and the nature, kind, shape, height, color scheme and materials of the proposed improvements or alterations. The Committee shall develop guidelines, where not otherwise set forth herein, to specify:

- (a) Minimum setbacks;
- (b) The location, height and extent of fences, walls, or other screening devices;
- (c) The orientation of structures and landscaping on lots with respect to streets, walks and structures on adjacent properties; and
- (d) A limited number of acceptable exterior materials and/or finishes that may be used in the construction, alteration or repair of any improvement.

3. Committee Approval: A majority of the Committee may designate one or more representatives with authority to grant the approval herein required. Any approval or disapproval by the Committee or its designated representatives on any of the above matters shall be in writing and either conveyed in person or by registered mail, return receipt requested. In the event said Committee or its designated representative(s) fail to disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, such approval will not be required and this covenant shall be deemed to have been complied with; provided, however, the necessity for compliance with all the remaining provisions of this declaration of Covenants, Conditions and Restrictions shall not be waived or affected by the Committee's failure to act.

4. Terms: The members of the Committee shall serve such terms as may be established by the Board of Directors.

5. The Board of Directors shall have the authority to develop, adopt and enforce architectural guidelines, by resolution duly adopted by a majority of the members of the Association at a publicized meeting, which architectural guidelines shall be filed of record with the County Clerk of Polk County, Texas.

## **ARTICLE VII**

### **Property Maintenance**

1. Maintenance: All residences and other buildings located on a Lot must be kept in good repair and must be painted when necessary to preserve their attractiveness. Grass, vegetation and weeds on each occupied lot shall be cut as often as may be necessary to maintain the same in a neat and attractive condition.

2. All damaged, diseased beyond recovery or dead trees shall be cut and removed from any Lot at the expense of the Owner.

3. No fence, wall, tree, hedge or planting shall be maintained on any Lot in such a manner as to obstruct sight lines for vehicular traffic.

4. Bulkheads: All waterfront lots shall be bulk headed and maintained, except for those natural areas which form 'beaches' and do not cause erosion of adjoining lots.

5. In the event any Owner of any Lot fails to maintain the Lot, and the improvements, including the maintenance of any bulkhead, situated thereon in a manner satisfactory to the Board of Directors of the Association, the Association, after thirty (30) days notice to the Owner of said Lot, setting forth the action intended to be taken by the Association and after approval by a majority vote of the Board of Directors, shall have the right (but not the obligation), through its agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and the exterior of the buildings and any other Improvements located thereon. The Association, or others authorized by the Association, may cut weeds and grass, remove garbage, trash and rubbish or do any other thing necessary to secure compliance with these Restrictions, so as to place said lot in a neat, attractive, and sanitary condition. Neither the Association nor its agents or employees shall be liable, and are expressly relieved from any liability for trespass or other tort in connection with actions undertaken hereunder.

6. The cost of such exterior maintenance and other work shall be the personal obligation of the Owner of the Lot on which it was performed and shall become a part of the fees payable by said Owner and secured by the liens herein retained. The defaulting owner will be charged for the reasonable cost of such work and associated materials. Any such charges shall be due immediately upon receipt. If the statement is not paid within thirty (30) days of the date due, then said amount shall accrue interest at the rate of ten (10%) per cent per annum. The payment of such charge is secured by the same lien on the property in question, which secures the charge for such work, the interest accrued, and legal fees and related costs in prosecuting and collecting said amount. Said lien shall only be judicially foreclosed.

#### **ARTICLE VIII Use Restrictions**

1. Residential Use: Each and every Lot is hereby restricted to residential dwellings for single family residential use only. The term "residential purposes" as used herein shall be held and construed to exclude hospitals, clinics, duplex houses, apartment houses, boarding houses, hotels and other or any commercial or business purposes large or small as all such uses of said property are hereby expressly prohibited. No building shall be erected, altered, placed or permitted to remain on any residential tract or lot other than one detached single-family dwelling and private garage. No property shall be rented or leased without a written agreement. Any rental or lease of property must be for a period of time of at least NINETY (90) days. Any rental or lease shall provide, in writing, that the renter or lessee has received a copy of the Restrictions and agrees to be bound by same and comply with all Restrictions. Rental or lease of the lot and residence shall not relieve the property owner from compliance with these Restrictions.

2. Common Area: The Common Area shall not be used for any commercial purposes; however, this provision shall not preclude the Association from charging reasonable fees or dues for the use of the recreational facilities which are part of the Common Area.

3. Business Activity: No business activities of any kind whatsoever shall be conducted on or about any Lot, provided, however, the foregoing covenant shall not apply to the Association, its successors and assigns in furtherance of its powers and purposes as herein set forth.

4. Signs: No advertising signs, billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on any Lot. Signs shall not be displayed to the public view.

Signs shall only be permitted on the lots in this subdivision as authorized by Section 202.009 of the Texas Property Code, as may be amended from time to time by the Texas Legislature. A property owner shall have the right to display "for sale" signs for the sale of their home and/or lot, provided that the sign does not exceed 2' x 3', and further provided that the sign is to be removed within thirty (30) days after sale. A property owners shall be entitled to display "vendor" or "contractor" signs, but any such signs shall be removed within thirty (30) days of completion of the work. Nothing herein is intended to prevent a property owners from posting a "No Trespassing" sign, provided that such sign does not exceed 1' x1'. The Association, however, shall have the right to erect Identifying signs at each entrance to the Subdivision. In no event shall the Association or its Board of Directors be liable to any person or persons for any damages of whatever nature for removing any sign located on any lot.

5. Type of Living Unit: No building shall be erected, altered, placed or permitted to remain on any Lot other than detached single family dwellings of not less than one thousand five hundred (1,500) square feet exclusive of porches and garages.

All buildings or structures erected upon Lots shall be of new construction and no buildings or structures shall be moved from other locations onto said Lots. No structures of a temporary character, including tents, shacks, barns, or other outbuildings shall be placed on any Lot except for such temporary buildings utilized by the Association or the builder of any residence during the period of construction.

Trailers, campers, mobile homes, or any type of motor vehicles shall not be used on any Lot at any time as a residence . All residences constructed within the Subdivision shall be completed within six (6) months from the date of beginning construction unless such period is extended in writing by the Architectural Control Committee.

6. Location of Living Unit on Lot: Except as may be authorized in writing by the Committee, no building or structure shall be located nearer to any front, side or rear Lot line than as permitted by the utility casements and the setback lines shown on the recorded plat of the Subdivision. To provide for uniformity and proper utilization of the building area within the Lots, Living Units or appurtenant structures shall not be less than five (5) feet from any side property line. The side of a residence which faces the front utility easement is deemed the front for restriction purposes.

7. Driveways: The owner of each Lot shall construct and maintain at his expense a concrete driveway from his garage/garages to an abutting street, including the portion of the street right-of-way.

8. Mailboxes and Identifying Numbers: Mailboxes, house numbers and similar matter located on Lots must be harmonious with the overall character and aesthetic appearance of the community and the decision of the Committee that any such matter is not harmonious shall be final.

9. Out Buildings/Storage Buildings: All out buildings must meet the architectural standards of the residence. The location and building materials shall be reviewed and approved by the Architectural Committee. This shall not preclude the use of structural steel for framing, steel roofs, metal gutters, nor steel siding that conforms in appearance to other approved siding materials.

10. Animals and Livestock: The raising or keeping of hogs, horses, poultry, fowl, or other livestock on any Lot is strictly prohibited. Consistent with its use as a residence, dogs, cats and other household pets may be kept on a Lot, provided they are not kept, bred or maintained for any commercial purposes. Any household pets allowed shall not be raised or maintained on the property in such manner, or with such lack of care, as to cause offensive odors or noises, or so as to otherwise be a nuisance or annoyance, or be raised for commercial purposes.

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

12. Disposal of Trash: No Lot shall be used, or maintained as a dumping ground for rubbish, trash, garbage or other wastes. All rubbish, trash, garbage or other waste shall be kept in sanitary containers and out of sight of the Common Area and any street or adjacent Lot, except on days designated for pick-up of such garbage. No incinerator may be maintained on any lot for household garbage.

13. Exterior Antennas: Without the prior written approval and authorization of the Board of Directors of the Association, no towering exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of the improvements and structures located on any Lot. Television dish antennas, not to exceed two feet in diameter, are permitted.

14. Storage of Vehicles: No portion of the streets or Common Area shall, without the express written permission of the Association, be used for the storage of boats, trailers, campers, unused or inoperable automobiles or any items which the Association deems unsightly or inappropriate. Boats, trailers, campers, unused or inoperable automobiles, and other machinery consistent with the use of the premises as a residence may be kept on Lots, provided they are kept or stored within a garage or such other place as may be completely out of view from the Common Area or any street or adjacent Lot.

15. Nuisances: No noxious or offensive activity shall be carried on upon any portion of any Lot, nor shall anything be done there on which may become an annoyance or nuisance, or endanger the health or safety of the residents of the Subdivision.

16. Mineral Production: No oil drilling, oil development operations or oil refining, quarrying or mining operations of any kind shall be permitted upon any portion of any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any portion of 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 portion of any Lot.

17. Building Materials: No Lot shall be used for storage of any material except that required for landscaping or construction, which materials shall not be placed or stored upon any Lot until the Owner is ready to commence diligent construction of improvements on the Lot, at which time such materials shall be placed within the property lines of the Lot upon which the improvements are to be constructed, and shall not be placed in the street or upon any common areas.

18. Drainage: Natural drainage of streets, Lots or roadway ditches shall not be impaired by any person(s), and the Association may remove any obstructions that hinder the flow of water through the roadway ditches or sewers. The installation of driveways shall be accomplished in a

good and workmanlike manner without hindrance to drainage and such work is subject to the inspection and approval by the Architectural Control Committee.

19. Wildlife hunting within Idlewilde Estates is expressly prohibited.

20. No detached improvement shall be erected or maintained on any part of any tract forward of the front building line of any lot or tract.

21. The cutting and removal of any tree on any lot in the Subdivision for commercial purposes is prohibited without the written consent of the Association.

22. The operation of mechanical vehicles, including but not limited to motorcycles, all terrain vehicles, cars or trucks shall not be permitted on easements or common areas in the Subdivision.

23. All commercial vehicles weighing in excess of 10,000 pounds or commercial vehicles with more than 5 axles are prohibited from parking in the subdivision whether in common areas, roadways, or private drives.

#### 24. Residential Fences

a. No fence may be erected forward of the front house line. For the purpose of these restrictions, the front of a house is the street side of the house.

b. Waterfront lots: Privacy/security fences of solid construction are prohibited. Where approved, open concept fences of a height up to four(4) feet are permitted on waterfront lots.

c. Interior lots: Privacy/security fences of solid construction, where approved, are permitted on interior lots that are back to back with another residential lot. Privacy/security fences, where permitted, are limited to a height of six (6) feet and six (6) inches.

### ARTICLE IX Easements

1. General: The Association shall have the right to grant, convey, dedicate or reserve easements over, on or under any part of any lot, for streets and/or for electric light and power, telephone, natural gas, water, sanitary sewer, storm sewer, cable television, and other utility lines and facilities by separate recordable document for a period of 10 years after the date this Declaration of Covenants, Conditions and Restrictions is filed of record in the Deed Records of Polk County, Texas, regardless of whether at such time the Association has title to the land within the easement(s). Thereafter, the Association shall have the power and authority to grant such easement upon the vote of a majority of the membership votes entitled to be cast at any meeting of the Members of the Association or otherwise.

2. Underground Electric Service: Underground single phase electric service may be available to all dwellings or structures located on any Lot. In such event, the metering equipment shall be located either on the exterior surfaces or walls of dwellings or structures or at points to be designated by the utility company.

3. The utility company shall have a two-foot wide underground easement along and centered on the underground electrical power service conductor installed and running from the utility company's easement shown on the recorded plat of the Subdivision to the designated point

of service on the dwelling or structure. This easement shall be for the maintenance of its conductors and metering equipment. For so long as such underground service is maintained, the electrical service to each dwelling and structure located in the Subdivision shall be uniform and exclusively of the type known as single phase, 120/240 volt, 3 wire, 60 cycle alternating current. This two-foot easement for underground electrical service may be crossed by driveways, walkways, and patio area, provided the owner or builder makes prior arrangements with the utility company furnishing such service. However, this easement shall be kept clear of all buildings. Neither the Association nor the utility company using this easement shall be liable for any damage done by either of them, or their assigns, their agents, employees or servants to shrubbery, trees, flowers or other improvements located on the land covered by such easement.

#### **ARTICLE X Water and Utility Service**

1. Potable water is presently supplied to the Lots by the Onalaska Water and Gas Corporation. Sewer service is provided by Polk County Fresh Water District #2. Water-tap, standby fees, user fees and similar charges may be imposed on Lot Owners for such service.
2. Property owners are responsible for maintenance of natural gas lines from the utility meter to the home.
3. Utility companies must be contacted prior to any ground excavation, i.e. utility lines, sprinkler systems, driveways, etc.

#### **ARTICLE XI General Provisions**

1. Duration and Amendment: The covenants, conditions, restrictions, reservations, liens and charges set forth in this Declaration of Covenants, Conditions and Restrictions shall run with the land and shall be binding upon and inure to the benefit of the Association, all Owners, their respective legal representatives, heirs, successors and assigns for a term of thirty (30) years from the date this declaration of Covenants, Conditions and Restrictions is filed with the County Clerk of Polk County, Texas for recordation in the Deed Records of Polk County, Texas, after which time said covenants, conditions, restrictions, reservations, liens and charges shall be automatically extended and renewed for successive periods of ten (10) years.
2. These covenants and Restrictions may be amended by one of the following methods:
  - (a) A majority of the then owners of the Lots signing a written instrument being recorded in the Official Public Records of Polk County, Texas, agreeing to change said covenants in whole or in part and/or
  - (b) The Association shall have the right at any time hereafter to amend any or all of the above restrictions, conditions, covenants as the Association in its sole discretion may deem reasonably necessary or desirable, subject to the approval of the Association's members by a majority in favor of such change in or waivers of any or all of the restrictions, conditions, and covenants by the members of the association, represented in person or by proxy, at a special or annual meeting at which a quorum is had and notice is given of the intended change(s).
3. Gender and Number: Whenever used the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

4. Headings: The paragraphs entitlements hereof are inserted for convenience or reference only and shall in no way alter, modify or define, or be used in construing, the text of such paragraphs.

5. Conflicts: In the event any term, condition or provision of this Instrument conflicts with the Restrictions described herein above, which were heretofore recorded and cover the Subdivision, the term, condition or provision hereof shall control as to the lots described herein.

6. Partial Invalidity and Severability.

(a) It is understood that no act or omission upon the part of any party hereto or any person hereafter acquiring an interest in said property by, through, or under same shall ever be construed as a waiver of the operation or enforcement of these covenants and restrictions, and easements.

(b) In the event any portion of the provisions hereof shall become or be held invalid, whether by reason of abandonment, waiver, estoppels, judicial decision or otherwise, such partial invalidity shall not affect, alter or impair any other provision hereof, which was not thereby held invalid; and such provisions, including Restrictions, Reservations and Covenants shall remain in full force and effect, binding in accordance with their terms.

(c) Acquiescence, regardless of time involved, in any violation shall not be deemed a waiver of the right to enforce against the violator or others the conditions and covenants so violated or any other conditions; the Association shall have the right to require that the same be corrected, and recover cost of any actions necessary to enforce corrections, including but not limited to attorney's fees.

(d) Any court ordered award of attorney's fees incurred for prosecution of such violation shall be secured by a lien against the property of the property owner found by a court to be in violation of these Restrictions.

7. Applicability. Each Contract, Deed, and/or Deed of Trust which may be hereafter executed with respect to any property in the Subdivision shall be deemed and held to have been executed, delivered, and accepted subject to all of the provisions of this instrument, including, without limitation, the Reservations, Restrictions and Covenants herein set forth, regardless of whether or not any of such provisions are set forth in said Contract, Deed or Deed of Trust, and whether or not referred to in any such instrument. These restrictions, conditions, covenants and assessments are, and shall be, deemed and considered covenants running with the herein above described lots, and the same shall be binding upon the lot owners and their heirs, executors, and administrators and assigns.

8. The foregoing restrictions, conditions, covenants and assessments shall be deemed and considered covenants running with the herein above described lots shall be binding upon the lot owners and their heirs, executors, and administrators and assigns. Notwithstanding any provision to the contrary, nothing herein or in the plats above referenced shall be deemed, interpreted or construed as imposing any obligation or obligations whatever upon the Property Owners Association, and the Property Owners Association shall not be liable under any provisions hereof or thereof for any charge, assessment, breach, act or omission to act.

These 2010 Restated, Consolidated, and Amended Restrictions were approved by the Board of Directors of the Idlewilde Estates Property Owners' Association, Inc., a Texas non-profit

corporation, at a special meeting held on December 6, 2010, and are executed by the President, on 6/20/2011, 2011, as indicated below.

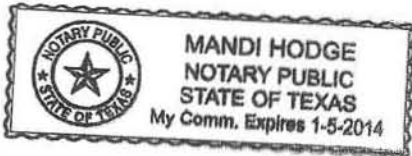
These 2010 Restated, Consolidated, and Amended Declaration of Covenants, Conditions and Restrictions are subject to the filing of a written instrument reflecting approval by at least a majority of the property owners, pursuant to the original Deed Restrictions referenced above, and if applicable by the procedure established by the 1982 Supplemental Restrictions for property owners subject to that procedure, and these 2010 Restated, Consolidated, and Amended Declaration of Covenants, Conditions and Restrictions shall take effect upon the filing of the written instrument reflecting approval and adoption by a majority of the property owners.

IDLEWILDE ESTATES PROPERTY OWNERS ASSOCIATION, INC.

By: Joseph C. Crain, President

STATE OF TEXAS \*  
COUNTY OF POLK \*

This instrument was acknowledged before me on the 20 day June, 2011 by Joseph Crain, President, Idlewilde Estates Property Owners' Association, Inc.



Mandi Hodge  
Notary Public, State of Texas

Prepared in the law offices of:  
Evans and Kitchens, LLP  
Lawyers  
P. O. Drawer 310  
Groveton, Texas 75845

✓ After filing return to:  
Idlewilde Estates Property Owners  
Association  
PO Box 508  
Onalaska, Texas 77360

#10116-10172

State of Texas )  
County of Polk )  
I, SCHELANA WALKER hereby certify that this instrument  
was FILED in the file number sequence on the date and at the time  
stamped hereon by me and was duly RECORDED in the Official  
Public Records in Volume and Page of the named RECORDS OF  
Polk County, Texas as stamped hereon by me.

SC  
DEC 12 2011  
Schelana Walker  
COUNTY CLERK  
POLK COUNTY, TEXAS

FILED FOR RECORD  
2011 DEC 12 AM 10:09

Schelana Walker  
COUNTY CLERK