

**JOINT AND MUTUAL
RESTRICTIVE COVENANT AGREEMENT
THE HOUSTON HEIGHTS
(PART OF) BLOCK(S) _____ AND _____**

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

WHEREAS, the undersigned persons own, respectively, the property set forth beside his, her, its, or their name(s) on Exhibit "A" attached hereto ("the Property"); and

WHEREAS, the undersigned persons desire to bind themselves in joint and mutual covenants to control the use and development of the Property herein described;

NOW, THEREFORE, it is hereby declared that all of the Property, as defined below, shall be held, sold, and conveyed subject to the following restrictions, covenants, and conditions which are for the purpose of protecting value and desirability of the Property, as defined below, and which shall run with the Property and shall be binding on all parties having any right, title, or interest in or to the Property or any part thereof, and their heirs, successors, and assigns, and which restrictions, covenants, and conditions shall inure to the benefit of each Owner, as defined below, of any of the Property:

ARTICLE ONE
DEFINITIONS

1.01 **OWNER.** "Owner" shall refer to the record Owner, whether one or more persons or entities, of the fee simple title to any of the Property, as defined below, whether all or part of said Property be improved or unimproved, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.02 **PROPERTY.** "Property" shall refer to any or all of those certain parcels of real property described on Exhibit "A" attached hereto beside the name or names of any person or persons who have executed this Agreement.

1.03 **RESIDENCE.** "Residence" shall mean and refer to a single dwelling unit (constituting a single residential space containing facilities for living, sleeping, cooking, and eating) included within or constituting a house, townhouse, condominium unit, apartment unit, or garage apartment.

ARTICLE TWO
RESTRICTIONS

2.01 **USE.** All of the Property shall be used for residential purposes; or, for primary residential use and incidental business or commercial use, in the home, provided that the permitted business or commercial use is incidental to the primary residential use of the Property and the general public is not invited, and the business or commercial use is limited to office or professional activity specifically excluding, without limitation, any manufacturing (other than home crafts and hobbies) or industrial activity. Except as otherwise provided herein, the Property shall not be used for any type of business or commercial purpose, or for any industrial or manufacturing purpose whatsoever. Boarding houses or use of any of the Property for hotel purposes is expressly prohibited hereby. No structure of a temporary character, trailer, mobile home, tent, shack, or other outbuilding shall be used on the Property at any time as a residence either temporarily or permanently.

2.02 DESTRUCTION OF PREMISES. Should any permanent structure located on the Property be totally destroyed by fire, wind, rain or any other disaster, then in any event, the Owner of said Property shall clean such Property of any and all debris within nine (9) months of the date of such disaster. The Owner may rebuild the destroyed structure in the same or substantially the same dimensions and site, and for the same use as immediately before the destruction.

2.03 SIGNS. No signs of any character shall be allowed on the Property or on any improvement located thereon, except (i) one sign of not more than five feet square advertising the Property or any Residence located on the Property for sale or rent, or (ii) signs of a temporary nature of not more than five square feet for political or garage sale purposes and (iii) plaques or markers or other type of designation erected or affixed on the Property awarded by federal, state, or municipal government or a civic association.

2.04 USE DURING CONSTRUCTION. An Owner and any other person or entity engaged in the construction and sale of Residences on the Property shall have the right during the construction and sales period, to construct and maintain, on a temporary basis, such facilities as may be reasonably necessary or convenient for such construction and sale, including, but not limited to, signs and storage areas.

2.05 NEW CONSTRUCTION. Subject to the provisions of Article 2, Section 2.01 herein, all new construction on the Property, whether new or as an addition to an existing structure, shall comply with the following restrictions:

- (a) SIDE AND BACK SETBACKS. No part of a Residence shall be constructed any closer than three (3) feet to each property line of the Property other than the front property line defined in Subsection (b) of this Section 2.05 (see Subsection (c) for the front setback), except that with respect to corner lots, the setback for the property line that faces a street (other than the front property line) shall be ten (10) feet. For purposes of this Section 2.05, "part of a Residence" shall mean any part of a Residence below the roof overhang, except for fireplace chimneys, stairs, wheelchair ramps, and bay windows. Roof overhangs shall extend no farther than halfway into any side or back setback area.
- (b) RESIDENCE TO FACE A STREET. Each Residence must be constructed so that its main entrance is incorporated into the elevation of the Residence that faces a street ("the face elevation") and so that no other Residence or significant structure is situated between the Residence and the street that it faces. For purposes of this Agreement, the property line between the face elevation of the Residence and the street that it faces is the "front property line," and the "main entrance" may consist of a porch or stoop that is designed to be entered from the direction of the front property line, even if the entry into the Residence from such porch or stoop is not facing the front property line.
- (c) FRONT SETBACK. No part of a Residence shall be constructed any closer than fifteen (15) feet to the Property's front property line as defined in Subsection (b) above.
- (d) HEIGHT RESTRICTIONS. No structure shall exceed the following height restrictions (from ground elevation to the highest point of the structure), except that such height restrictions may be exceeded to accommodate architectural embellishments that do not constitute living area, such as chimneys, steeples, and towers, and that are each of a circumference of no greater than thirty-six (36) feet:
 - (i) if the width of the Property (from side property line to side property line) is fifty (50) feet or less, forty (40) feet in height;

- (ii) if the width of the Property is greater than 50 feet, 40 feet in height plus an additional one (1) foot of height for every one (1) foot of setback (from the nearest side property line) in addition to the initial three (3) foot setback required in Subsection (a) above, provided, however, that in no event shall the structure exceed fifty (50) feet in height.
- (e) COMMON WALL CONSTRUCTION PROHIBITED. No Residence shall be constructed to share a common wall with another Residence, nor shall any Residence be constructed so that any exterior wall of such Residence is within six (6) feet of an exterior wall of another Residence; provided, however, that this restriction shall not prohibit the renting or leasing of space within a Residence that is otherwise permitted by this Agreement, nor shall it prohibit the construction of an apartment unit as part of a garage structure appurtenant to a Residence on a single Property that otherwise meets the density requirements of Section 2.06 hereof.
- (f) GARAGE SETBACK. No garage shall be constructed closer to the front property line of the Property than the midway point between the front property line and the opposite property line (*i.e.*, the rear property line), nor shall any garage be constructed so that it is closer to the front property line than the face elevation of the Residence to which it is appurtenant. If the garage is part of the structure of the Residence, the structure shall be constructed so that the garage door and frame comprise no more than half of the width of the first floor of the structure's face elevation as defined in Subsection (b) above.
- (g) RAISED FOUNDATION REQUIRED. Each Residence (but not including a garage or other structure appurtenant to the main Residence) shall be constructed with a pier-and-beam foundation or, if not pier-and-beam, a foundation that otherwise raises the bottom floor of the Residence no less than two (2) feet from ground elevation.
- (h) MINIMUM STREET FRONTAGE. Each Residence shall have a front property line of no less than fifty (50) feet, except that if the length of the front property line of the Property on which the Residence is located is less than fifty (50) feet as of the date that this Agreement is executed with respect to such Property, the minimum front property line shall be such lesser length.
- (i) RESTRICTIONS ON MODIFICATIONS. The provisions of this Section 2.05 shall not be effective to the extent prohibited by Section 207.008 of the Texas Property Code.

2.06 DENSITY. No Residence shall be constructed on the Property if the consequence would be a density of greater than one (1) Residence for every five thousand (5,000) square feet of area of the Property ("the minimum square footage"), except that if the square footage of the Property is less than five thousand (5,000) square feet as of the date that this Agreement is executed with respect to such Property, the minimum square footage shall be such lesser square footage. For this purpose, "Residence" shall not include any garage apartment that is appurtenant to a Residence on the same Property.

2.07 RUBBISH, TRASH, AND GARBAGE. No Property shall be used or maintained as a dumping ground for rubbish or trash, and no garbage or other waste shall be kept except in sanitary containers. All incinerators or other equipment for the storage and disposal of such materials shall be kept in a clean and sanitary condition.

ARTICLE THREE GENERAL PROVISIONS

3.01 ENFORCEMENT. Any Owner or Owners of a Property restricted herein, jointly or severally, and/or The Houston Heights Association, a Texas nonprofit corporation (the "Association"), its successors or assigns shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, and

reservations now or hereafter imposed by the provisions of this Agreement against any Property reflected hereby. If restrictions are enforced exclusively by The Houston Heights Association, each Owner, by his execution hereof, shall be deemed to have appointed the Association, its successors and assigns, as Agent and Attorney-in-Fact of such owner, to act in the place, stead, and on behalf of such Owner in the enforcement of any restrictive covenant contained herein. Notwithstanding the foregoing, the Association shall not be required or obligated to bring any such claims or litigation or otherwise enforce the restrictive covenants herein contained or be joined in any proceeding as a necessary party. Failure to enforce any covenant or restriction herein contained shall, in no event, be deemed a waiver of the right to do so thereafter.

3.02 SEVERABILITY. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, and all other provisions shall remain in full force and effect.

3.03 NON-CONFORMING USE. All Owners expressly agree and acknowledge that as to any Property restricted hereby, any non-conforming use, legally and lawfully in existence as of the effective date hereof, that does not comply with the restrictions and covenants set forth herein, shall not be enforceable against the Owner of such Property whose non-conformance falls within the terms and provisions of this paragraph; provided, however, that upon the voluntary discontinuation of a non-conforming use or the abandonment or substantial destruction of the improvements located on the Property whereupon such non-conforming use existed, then in such event(s), these restrictions and covenants shall be of full force and effect and enforceable against such Owner and Property whereupon such non-conforming use existed, and such Owner shall be prevented from re-establishing such non-conforming use after such abandonment, voluntary discontinuation, or substantial destruction of such improvements.

3.04 DURATION AND AMENDMENT. The covenants, conditions, and restrictions of this Agreement shall run with and bind the land, and shall inure to the benefit of, and be enforceable by, the Owner of any Property subject to this Agreement, and his/her/its respective legal representatives, heirs, successors, and assigns (or The Houston Heights Association, as provided in paragraph 3.01 herein), and unless amended or terminated as provided herein, shall be effective for a term of twenty (20) years from the date this Agreement is recorded, after which time said covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years. The covenants, conditions, and restrictions of this Agreement may be amended or terminated only as provided in Chapter 207 of the Texas Property Code. No amendment or termination shall be effective until recorded in the Real Property Records of Harris County, Texas.

3.05 This instrument may be executed in multiple counterparts, all of which shall be considered one and the same instrument.

3.06 This Agreement may be executed and filed of record in multiple originals, all of which, in the aggregate, shall be considered one and the same instrument for purposes of the enforcement or interpretation of any provision hereof.

EXECUTED by the undersigned Owners as of the dates of the respective acknowledgements shown on the attached sheets, and effective for all purposes of the dates of such respective acknowledgements as to that portion of the Property owned by the undersigned persons, respectively.

EXHIBIT A

We, the undersigned property owners of Lots or portions thereof adjacent to _____ Street in Block(s) _____ and _____ of THE HOUSTON HEIGHTS, an addition to the City of Houston, according to the Map or Plat thereof recorded in Volume 1A, Page 114, of the Map Records of Harris County, Texas, wish to restrict the following described property in accordance with the terms set forth in the preceding document:

LOT OWNERS:

LOTS OWNED AND STREET ADDRESS:

SIGNATURE
PRINTED NAME: _____

Lot _____, Block _____
Address: _____

SIGNATURE
PRINTED NAME: _____

Lot _____, Block _____
Address: _____

SIGNATURE
PRINTED NAME: _____

Lot _____, Block _____
Address: _____

SIGNATURE
PRINTED NAME: _____

Lot _____, Block _____
Address: _____

SIGNATURE
PRINTED NAME: _____

Lot _____, Block _____
Address: _____

SIGNATURE
PRINTED NAME: _____

Lot _____, Block _____
Address: _____

SIGNATURE
PRINTED NAME: _____

Lot _____, Block _____
Address: _____

SIGNATURE
PRINTED NAME: _____

Lot _____, Block _____
Address: _____

SIGNATURE
PRINTED NAME: _____

Lot _____, Block _____
Address: _____

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____, by
_____.

(SEAL)

Notary Public in and for the State of Texas

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____, by
_____.

(SEAL)

Notary Public in and for the State of Texas

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____, by
_____.

(SEAL)

Notary Public in and for the State of Texas

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____, by
_____.

(SEAL)

Notary Public in and for the State of Texas

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____, by
_____.

(SEAL)

Notary Public in and for the State of Texas