

# Restrictions

## *Columbia Lakes Subdivision*

**The State of Texas**

**Know All Men By These Presents:**

**County of Brazoria**

THAT, TENNECO REALTY DEVELOPMENT CORPORATION, a Delaware corporation, is the owner of certain property in Brazoria County, State of Texas, which it has designated Columbia Lakes.

NOW, THEREFORE, TENNECO REALTY DEVELOPMENT CORPORATION desires to create and carry out a uniform plan and scheme for the improvement, development and sale of certain property in Columbia Lakes, and to accomplish such end does hereby adopt, establish, promulgate and • impress the following Reservations, Restrictions and Covenants which shall be and are hereby made applicable to those properties located in Columbia Lakes which are herein denned as the "Subdivision":

### I.

#### DEFINITIONS

**Developer**—Tenneco Realty Development Corporation, a Delaware corporation, its successors and assigns, including such persons, partnerships or corporations which in agreement with Tenneco Realty Development Corporation, are substituted for Tenneco Realty Development Corporation under this instrument. Such substitution may relate to all or any part of this instrument and shall become effective by the execution and recording of an appropriate amendment to this instrument.

**Subdivision**—Columbia Lakes, Section 1, Section 2, Section 3 and Section 4, according to the recorded plats thereof in the Plat Records of Brazoria County, Texas, as follows:

<u>Plat of:</u>	<u>Where Recorded</u>
Section 1	Volume 14 at Pages 37 and 38
Section 2	Volume 14 at Pages 53 and 54
Section 3	Volume 14 at Pages 65 and 66
Section 4	Volume 15 at Pages 3 and 4

It is the intention of the Developer to include all of the premises, except as herein expressly excluded, in said plats and that said premises are to be divided according to said plats into lots and blocks as shown on said plats.

The Developer hereby reserves the right to amend this instrument (by appropriate instrument which when executed and recorded shall constitute an amendment to this instrument) to include other sections located within Columbia Lakes. Following such amendment to this instrument, such section(s) shall be included in the definition of "Subdivision".

**Lot**—That portion of platted territory or fractional part of block measured and set apart for individual and private use and occupancy according to the recorded plat(s) of the Subdivision on file in the Plat Records of Brazoria County, Texas. For the purposes of this instrument, the word "Lot" shall not be deemed to include any portion of any reserve shown on the recorded plat(s) of the Subdivision or any area identified by this instrument or such plat(s) as an unrestricted area.

### II.

#### GENERAL PROVISIONS

##### **Applicability**

1. Each Contract, Deed 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.

##### **Reservations**

2. The Developer does hereby grant to the Lot owners within the Subdivision an easement to use all roads and streets shown on the recorded plat(s) of the Subdivision to be used for the enjoyment of such Lot owners, their guests, representatives, and invitees. Such easement is subject to the reservations set forth below.

3.a. The Developer expressly reserves the right to dedicate and convey any and all streets within the Subdivision to either (i) the State of Texas, (ii) the County of Brazoria, Texas, or (iii) any political subdivision of either the State of Texas or the County of Brazoria, Texas.

b. The Greenbelt easements shown on the recorded plat(s) are reserved for the common use and benefit of Lot owners, their guests, representatives, and invitees with such common use limited to that of walkways, horse, bicycle and golf cart paths, and shall not be used by any motor vehicle, other than golf carts, or such necessary vehicles used for the improvement and/or maintenance of the Subdivision or for the construction and/or maintenance of buildings in the Subdivision.

c. The utility easements shown on the recorded plat(s) are dedicated with the reservation that such utility easements are for the use and benefit of any public utility and for the benefit of the Developer and of the property owners in the Subdivision to allow for the construction, repair, maintenance and operation of a system or systems of electric light and power, telephone lines, gas, water, sanitary sewers, storm sewers and any other utility or service which the Developer may find necessary or proper.

d. The title conveyed to any property in the Subdivision shall not be held or construed to include the title to the water, gas, electricity, telephone, storm sewer or sanitary sewer lines, poles, pipes, conduits or other appurtenances or facilities constructed by the Developer or public utility companies upon, under, along, across or through such public utility easements; and the right (but no obligation) to construct, maintain, repair and operate such systems, utilities, appurtenances and facilities is hereby expressly reserved to the Developer.

e. The right to sell or lease such lines, utilities, appurtenances or other facilities to any municipality, governmental agency, public service corporation or other party is hereby expressly reserved to the Developer.

f. The Developer reserves the right to make minor changes in and minor additions to such utility easements for the purpose of more efficiently serving the Subdivision or any property therein.

g. In using said utility easements the Developer shall not be liable for any damage done by its agents or employees to shrubbery, trees, flowers or other property of the landowner situated on the land covered by said utility easements.

h. The Developer reserves the right to construct one or more esplanades in the areas where esplanades are shown on the recorded plat(s) of the Subdivision. The Developer further reserves the right to improve, landscape, alter, modify, and eliminate any one or more of such esplanades (or reinstall one or more of such esplanades) at any time, and from time to time, hereafter.

i. All reserves, including reserves A and B and any other designated reserve, shown on the recorded plat(s) of the Subdivision are hereby designated to be unrestricted areas and to be used for any purpose designated by the Developer.

j. The Developer reserves the right at any time, and from time to time, hereafter to promulgate and impose restrictions (as well as vary and amend such restrictions) as to all or any portion of the reserves of the Subdivision identified on the aforesaid plat(s). No such action by the Developer shall in order to be fully binding require the joinder of any other person, whether such person be an owner of property in the Subdivision, a lienholder, a mortgagee or a Deed of Trust beneficiary.

#### **Duration**

4. The provisions hereof, including the Reservations, Restrictions and Covenants herein set forth, shall run with the land, shall be perpetual and shall be binding upon the Developer and all persons or parties claiming under it or them, except that at any time and from time to time the then owner(s) of a majority of Lots in the Subdivision (including Lots owned by the Developer) shall have the right to execute and record an instrument or instruments changing the provisions hereof, in whole or in part, and the provisions of said instrument or instruments shall become effective on the next day following the day on which such executed instrument shall be recorded in the deed records of Brazoria County, Texas. However, no amendment or modification to the provisions hereof relating to the reserves shown in the recorded plat(s) shall be effective without the consent thereto by the Developer.

#### **Enforcement**

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

#### **Partial Invalidity**

6. In the event that any portion of the provisions hereof shall become or be held invalid, whether by reason of abandonment, waiver, estoppel, 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 other provisions, including Restrictions, Reservations and Covenants shall remain in full force and effect, binding in accordance with their terms.

#### **Effect of Violations on Mortgages**

7. No violation of the provisions herein contained, or any provision thereof, shall affect the lien of any Mortgage or Deed of Trust presently or hereafter placed of record or otherwise affect the rights of the Mortgagee under any such Mortgage, the holder of any such lien or the beneficiary of any such Deed of Trust; and any such Mortgage, lien or Deed of Trust may be enforced in accordance with its terms, subject, nevertheless, to the provisions herein contained, including said Reservations, Restrictions and Covenants.

### **III.**

#### **ARCHITECTURAL CONTROL**

##### **General**

1. No building or other improvement of any character (including but not limited to, homes, garages, outbuildings, fences and walks) shall be erected or placed, or the erection or placing thereof commenced, or changes made in the design thereof or any addition made

thereto or exterior alteration made therein after original construction, on any property in the Subdivision until the obtaining of the necessary approval (as hereinafter provided) of the construction plans and specifications and of a plat showing the location of such building or other improvements. Approval shall be granted or withheld based on matters of compliance with the provisions of this instrument, quality of materials, harmony of external design with existing and proposed structures and location with respect to topography and finished grade elevation.

#### **Architectural Control Authority**

2.a. The authority to grant or withhold architectural control approval as referred to above is vested in the Developer; except, however, that such authority of the Developer shall cease and terminate upon the appointment of the Columbia Lakes' Architectural Control Committee (herein referred to as the "Committee"), in which event such authority shall be vested in and exercised by the Committee (as provided in paragraph b. below), except as to plans and specifications and plats theretofore submitted to the Developer which shall continue to exercise such authority over all such plans, specifications and plats.

b. At such time as all of the Lots in the Subdivision and in all other Sections of Columbia Lakes (as platted from time to time hereafter) shall have been sold by the Developer, or at such earlier time as the Developer may elect, the Developer shall cause a statement of such circumstances to be placed of record in the Deed Records of Brazoria County, Texas. Thereupon, the Developer shall within sixty (60) days thereafter appoint a committee of three (3) as members of the Columbia Lakes Architectural Control Committee. Each member of the Committee must be an owner of property within the Subdivision. (Nothing herein shall be interpreted to require that the Developer actually file any such statement so long as it has not subdivided and sold all Lots within the entirety of the Subdivision, nor to affect the time at which the Developer might subdivide, develop and sell Lots within the Subdivision.)

#### **Events Necessitating Elections**

c. After its initial appointment, the Committee thereafter shall be obligated to arrange for elections (in the manner and after notice as set forth below) either for (i) the removal and/or replacement of Committee members when so requested in writing by the owner(s) of thirty (30) or more Lots within the Subdivision, or (ii) upon the death, resignation, refusal or inability of any member of the Committee to serve (upon such death, resignation, refusal or inability, the remaining members of the Committee may fill the vacancy by appointment, pending an election as set forth below).

#### **Procedure for Elections**

d. All elections arranged by the Committee shall be in an equitable manner and after notice of the time and place of such election (which shall be in Brazoria County, Texas). Notice shall be given to the owners of Lots within the Subdivision not less than five (5) days prior to the holding of such elections.

The owner(s) of Lots shall be entitled to one (1) vote for each whole Lot owned (fractional votes shall not be counted) The results of each such election shall be determined on the basis of the majority of votes cast in such election.

Votes of owners shall be evidenced by written ballot furnished by the Committee and the Committee shall maintain said ballots as a permanent record of such election for a period of not less than four (4) years after such election. Any owner may appoint a proxy to cast his ballot in such election, provided that his written appointment of such proxy is attached to the ballot as a part thereof.

#### **Recordation of Changes of Committee Members**

e. The results of any such election and of any removal or replacement of any member of the Committee may be evidenced by the recording of an appropriate instrument properly signed and acknowledged either by the Developer, the Committee, or by the nominee or designee of said owner(s) voting in such election.

#### **Effect of Inaction**

3. Approval or disapproval as to architectural control matters as set forth above shall be in writing. In the event that the authority exercising the prerogative of approval or disapproval (whether the Developer or the Committee) fails to approve or disapprove in writing any plans or specifications submitted to it in compliance with the preceding provisions within thirty (30) days following such submission, such plans or specifications shall be deemed approved and the construction of any such building and other improvements may be commenced and proceeded within compliance with all such plans or specifications and all of the other terms and provisions hereof.

#### **Effect of Approval**

4. The granting of the aforesaid approval shall constitute only an expression of opinion, whether by the Developer or the Committee, that the terms and provisions hereof shall be complied with if the building and/or other improvements are erected in accordance with said plans and specifications and plat; and such approval shall not constitute any nature of waiver of the provisions hereof nor an estoppel either as to the persons expressing such approval or any other person in the event that (i) such building and/or improvements are not constructed in accordance with such plans and specifications and plat or (ii) such building and/or improvements are constructed in accordance with such plans and specifications and plat, but, nevertheless, fail to comply with the provisions hereof. Further, no person exercising or failing to exercise any prerogative of approval or disapproval shall incur any liability by reason of the good-faith exercise thereof. Exercise of any such prerogative by one (1) or more members of the Committee in their capacity as such shall not constitute action by the Developer after the appointment of such Committee members, notwithstanding that any such Committee member may be a Director, officer or employee of the Developer.

## **IV.**

### **GENERAL RESTRICTIONS**

#### **Land Use and Building Type**

1. All Lots (which does not include any portion of any reserve shown on the recorded plat(s) of the Subdivision or any area identified by this instrument or such plat(s) as an unrestricted area) in the Subdivision as shown on the recorded plat(s)

are hereby designated to be used for single-family residential purposes only. The term residential purposes as used herein excludes hospitals, clinics, apartment houses, boarding houses, hotels and commercial and professional uses, whether from homes, residences or otherwise, and all such uses of the Lots are expressly prohibited. No house trailer, camper vehicle or motor vehicle (or portion thereof) shall be used as a residence, (either temporarily or permanently) on any Lot. No Lot in the Subdivision shall be used for any commercial, business or professional purpose nor for church purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached, single-family dwelling, not to exceed two stories in height and one (1) attached or detached private garage for not more than three (3) automobiles.

Construction and sales offices may be constructed on specific Lots as designated by the Developer.

2. No noxious or offensive activity of any sort shall be permitted, nor shall anything be done on any Lot which may be or become an annoyance or nuisance to the Subdivision.

3. No structure of a temporary character nor any trailer, tent, shack, garage, bam or other outbuilding shall be used on any Lot at any time as a residence, except, however, that living quarters for bona fide servants who work on the premises may be constructed as an addition to a garage.

4. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other common household pets may be kept as household pets provided they are not kept, bred or maintained for commercial purposes and provided they do not constitute a nuisance and do not, in the sole judgment of the Developer, constitute a danger or potential or actual disruption of other Lot owners, their families or guests.

5. The drying of clothes and the storage of boats and/or boat trailers in public view is prohibited, and the owners or occupants of any Lots at the intersection of streets or adjacent to parks, golf courses, playgrounds or other facilities where the rear yard or portion of the Lot is visible to the public, shall construct and maintain suitable enclosures to screen drying clothes and boats and/or boat trailers from public view.

6. All Lots shall be kept at all times in a sanitary, healthful and attractive condition, and the owners or occupants of all Lots shall keep all weeds and grass thereon cut and shall in no event use any Lot for storage of material or equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted, nor shall such owners or occupants permit the accumulation or burning of garbage, trash or rubbish of any kind thereon. All clotheslines, yard equipment or storage piles shall be kept screened by a service yard, drying yard or other similar facility as herein otherwise provided, so as to conceal them from view of neighboring Lots, streets or other property. Boat trailers, boats, travel trailers, automobiles, campers, or vehicles of any kind are not to be semipermanently stored in the street rights-of-way or on driveways. Permanent and semipermanent storage of such items and vehicles must be screened from public view, either within the garage or behind any fence enclosing the rear of the Lot. Semipermanent is defined as exceeding a twelve (12) hour period of time.

In the event of default on the part of the owner or occupant of any Lot in observing the above requirements or any of them, such default continuing after ten (10) days' written notice thereof, the Developer (until the Committee is selected, and thereafter the Committee) may, without liability to the owner or occupant in trespass or otherwise, enter upon (or authorize one or more others to enter upon) said Lot, and cause to be cut, such weeds and grass, and remove or cause to be removed such 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, healthful and sanitary condition, and may charge the owner or occupant of such Lot for the reasonable cost of such work and associated materials. The owner or occupant, as the case may be, agrees by the purchase or occupation of the property to pay such statement immediately upon receipt thereof; however, the payment of such charge is not secured by any nature of lien on the property.

7. Before initial residential occupancy, no sign, advertisement, billboard or advertising structure of any kind may be erected or maintained on any Lot in the Subdivision without the consent of the Developer (until the Committee is selected, and thereafter the Committee); and any such consent which is granted by the Developer or the Committee, as the case may be, may be withdrawn at any time by the Developer or the Committee, in which event, the party granted such permission shall, within the period designated by the Developer or the Committee (which in no event shall be less than five (5) days), thereupon remove same. After initial residential occupancy on any particular Lot in the Subdivision, no sign, advertisement, billboard or advertising structure of any kind other than a normal for-sale sign approved by the Developer or Committee as the case may be, as to design, not exceeding two feet by three feet (2' x 3') erected on a post in the ground, and applicable to such Lot alone, may be erected or maintained on such Lot.

The Developer or the Committee, as the case may be, shall have the right to remove and dispose of any such prohibited sign, advertisement, billboard or advertising structure which is placed on any Lot, and in so doing shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal nor in any way be liable for any accounting or other claim by reason of the disposition thereof.

8. The digging of dirt or the removal of any dirt from any Lot is expressly prohibited except as necessary in conjunction with the landscaping of or construction or repair on such Lot. No trees shall be cut or removed except to provide room for construction of improvements or to remove dead or unsightly trees.

9. No outside aerial, pole or other device shall project above the highest ridge of the house constructed on a Lot by more than thirty (30) feet.

10. No Lot or other portion of Columbia Lakes shall be used or permitted for hunting or for the discharge of any pistol, rifle, shotgun, or any other firearm, or any bow and arrow or any other device capable of killing or injuring.

11. Driveways shall be entirely of concrete (except, however, some other material may be used with the prior consent of the Developer or Committee, as the case may be), and shall be constructed with a minimum width of nine (9) feet with expansion joints not more than twenty (20) feet apart, with one joint at the back of the street curb. The width of each driveway shall flair to a minimum of sixteen (16) feet and the curb shall be broken in such manner that the driveway may be at least four inches thick at its end toward the

street paving, and this extreme shall be poured against a horizontal form board to reduce the unsightly appearance of a ravelling driveway.

12. Walks from the street curb to the residence shall have a minimum width of four (4) feet and shall be constructed entirely of concrete (except, however, that some other material may be used with the prior consent of the Developer or Committee, as the case may be).

13. No outside toilets will be permitted, and no installation of any type of device for disposal of sewage shall be allowed which would result in raw or untreated or unsanitary sewage being carried into any water body. No septic tank or other means of sewage disposal may be installed unless approved by the proper governmental authorities having jurisdiction with respect thereto and the Developer, or following the selection of the Committee, by the Committee.

14. At no time shall the drilling, usage or operation of any water well be permitted on any Lot.

#### **Building Locations**

15. In accordance with the recorded plat(s), and except as provided herein, no part of any building shall be located upon any Lot nearer to the front line than the building line as shown on the recorded plat(s) of the Subdivision nearer than five (5) feet to a side Lot line, nor nearer than five (5) feet to the rear Lot line; except that where a Lot is adjacent to a side street, no building located upon such Lot shall be nearer than ten (10) feet to the side street line. In the event a Lot contains a utility and/or utility and greenbelt easement, then no building shall be constructed upon such utility and/or utility and greenbelt easement. Notwithstanding the foregoing, an owner of two or more adjacent Lots shall be permitted to build a single residence upon such Lots without regard to restrictions which would otherwise be applicable to the side Lot lines which separate such Lots.

For the purposes of this instrument eaves, steps and open porches shall not be considered as part of a building for the purpose of determining distances.

Residential buildings on corner Lots shall face the street upon which the Lot fronts as shown on the recorded plat(s) of the Subdivision.

The front of the Lot is the property line having the smallest dimension on a street.

On irregular shaped corner Lots, the facing of the residence is hereby declared to be under the supervision and control of the Developer or Architectural Control Committee, as the case may be.

#### **Lot Area and Width**

16. Lots may be resubdivided into building sites comprised of a part of one or more Lots as platted, provided that no detached dwelling shall be erected or placed upon any building site containing less than 7,500 square feet in area or having a width of less than 75 feet at the front building setback line shown on the recorded plat(s) of said Subdivision.

#### **Enclosed Foundations**

17. Elevated dwellings or those constructed on poles or pilings shall have the foundation enclosed as approved by the Developer or the Architectural Control Committee, as the case may be.

#### **Designation of Types of Lots**

18.a. All Lots in the Subdivision having a common boundary with the lakes as shown on the recorded plat(s) of the Subdivision are hereby designated as "Lakefront Lots."

b. All Lots in the Subdivision having a common boundary with any portion of the reserves shown on the recorded plat(s) of the Subdivision are hereby designated as "Reserve Lots."

c. All Lots in the Subdivision having a common boundary with any portion of the Lagoon as shown in the recorded plat(s) of the Subdivision are hereby designated as "Lagoon Lots."

d. All Lots in the Subdivision not having any of the characteristics referred to above are hereby designated as "Town and Country Lots."

#### **Dwelling Size and Construction**

19. The living area of the main residence structure exclusive of porches, whether open or screened, garage, or other car-parking facility, terraces, driveways and service quarters shall not be less than the following respective amounts for each of the designated particular types of Lots:

Lakefront Lots— 1,500 square feet per dwelling.

Reserve Lots — 1,500 square feet per dwelling.

Lagoon Lots— 1,800 square feet per dwelling.

Town and Country Lots— 1,200 square feet per dwelling.

#### **Utility Systems**

20. Only underground utility systems shall be installed and no above surface service wires will be installed outside of any structure. Underground utility service lines shall extend through and under Lots in the Subdivision in order to serve any structure thereon, and the area above said underground lines and extending 2 1/2 feet to each side of said underground lines shall be subject to excavation, refilling and ingress and egress for the installation, inspection, repair, replacing and removing of said underground facilities by any utility company that serves and supplies the Subdivision; and owners of Lots shall ascertain the location of said lines and, at the cost to owner, keep the area over the route of said lines free of excavation and clear of structures, trees or other obstructions.

#### **Walls, Fences and Hedges**

21. No wall, fence, planter or hedge (or other improvement or object serving a like or similar purpose) shall be constructed or permitted without the written consent of the Developer or Committee, as the case may be.

No wall, fence, planter or hedge in excess of two (2) feet high shall be erected or maintained nearer to the front Lot line than the front building setback line, nor on corner Lots nearer to the side Lot line than the building setback line parallel to the side street; no other permitted wall, fence, planter or hedge shall be more than six (6) feet high, nor shall any such wall, fence or hedge encroach upon any utility or greenbelt easement as shown on the recorded plat(s) of the Subdivision.

Nothing which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways within the triangular area formed by intersecting street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines (or extensions thereof) shall be placed, planted or permitted to remain on corner Lots.

**Use of Lakes and Lagoons**

22. No boat of any kind (electric or otherwise) shall be permitted or used on the water of the lakes or lagoons shown on the recorded plat(s) of the Subdivision, except those boats that shall be authorized or owned by the Developer.

**V.**

**SPECIAL RESTRICTIONS**

1. Lakefront and Lagoon Lots. In addition to the General Restrictions set forth in Section IV above, the following restrictions shall apply to Lakefront Lots and Lagoon Lots:

a. No pier or other structure shall be permitted which projects beyond the Lot line or into the water (whether within or outside of the Lot line) of the lakes and lagoons shown on the recorded plat(s) of the Subdivision.

b. No wall or fence across the back of any such Lot shall extend over four (4) feet above ground level.

2. Reserve Lots. In addition to the General Restrictions set forth in Section IV above, the following restrictions shall apply to Reserve Lots:

a. No wall or fence across the back of any such Lot shall be constructed or permitted without the written consent of the Developer, or following the selection of the Committee by the Committee; in the event any such wall or fence is permitted, in no event shall it extend over four (4) feet above ground level.

b. Each Reserve Lot shall be planted with grass by the Lot owner at his own cost within a reasonable time after each such Lot is purchased from the Developer; however, only grass as of the type and variety approved by the Developer shall be planted on any Reserve Lot. Developer reserves the right subsequently, at its sole election and expense to replant with a different type and variety of grass all or any part of any Reserve Lot.

3. Lakefront, Lagoon and Reserve Lots. On all Lots which adjoin or abut lakes, lagoons and/or reserves as shown on the recorded plat(s) of the Subdivision, no garages or any other building shall be constructed, placed or erected closer than twenty-five (25) feet to the rear property line. On these Lots no garage, detached or attached, shall have their opening facing the rear of the property.

**VI.**

**MAINTENANCE FUND**

1. Each Lot in the Subdivision shall be and is hereby made subject to a maintenance charge of not less than \$6 per month (\$72 per year) nor more than \$15 per month (\$180 per year) except as otherwise hereinafter provided. Lot owner(s) shall be charged for each whole Lot and pro rata for any portion of a Lot(s) owned by such owner(s). Except as otherwise hereinafter provided, the maintenance charge shall be paid monthly by the owner of each Lot in advance, on or before the 1st day of each month.

2. The maintenance charge shall be used to create a fund to be known as the "Maintenance Fund."

3. The exact amount of each monthly maintenance charge will be determined by the Developer from month to month, with each change becoming effective thirty (30) days after the date of notice to the owners of Lots of such change. All other matters relating to the assessment, collection, expenditure and administration of the Maintenance Fund shall be determined by the Developer.

4. The maintenance charge shall not, without the consent of the Developer, apply to Lots owned by the Developer or owned by any person, firm, association or corporation engaged primarily in the building and construction business which has acquired title to any such Lots for the sole purpose of constructing improvements thereon and thereafter selling such Lots;

However, upon any such sale of such Lots by such person, firm, association or corporation to a purchaser whose primary purpose is to occupy and/or rent and/or lease such Lot (and improvements thereon if any) to some other occupant, then the maintenance charge shall thereupon be applicable to such Lot; and the Developer hereby consents to the applicability of the maintenance charge to each such Lot under the circumstances herein slated. Any transfer of title to any Lot by any such person, firm, association or corporation engaged primarily in the building and construction business to a transferee engaged primarily in the building and construction business shall not without the consent of the Developer result in the applicability of the maintenance charge to such Lot owned by the transferee or any succeeding transferee primarily engaged in the building and construction business.

The Developer reserves the right at all times, in its own judgment and discretion, to exempt any Lot in the Subdivision from the maintenance charge, and exercise of such judgment and discretion when made in good faith shall be binding and conclusive on all persons and interests.

5. The Developer shall have the right at any time to discontinue or abandon such maintenance charge, without incurring liability to any person whomsoever or to relinquish all or any of the powers, obligations and responsibilities herein reserved to Developer, unto the Columbia Lakes Maintenance Fund Committee hereinafter provided for by filing a written instrument in the office of the County Clerk of

Brazoria County, Texas, declaring any such discontinuance, abandonment or relinquishment Thereafter, the Columbia Lakes Maintenance Fund Committee shall have all the powers, obligations and responsibilities as are herein reserved to Developer insofar as the relinquished powers, obligations and responsibilities are concerned.

6. The maintenance charges collected shall be paid into the Maintenance Fund to be held in trust and used for the benefit, directly or indirectly, of the Subdivision; and such Maintenance Fund may be expended by the Developer for any purposes which, in the judgment of the Developer or following the establishment of the Columbia Lakes Maintenance Fund Committee, by such Committee, will tend to maintain the property values in the Subdivision, including, but not by way of limitation:

(i) Providing for the enforcement of the provisions of this instrument, including the aforesaid Reservations, Restrictions and Covenants for the maintenance, operation, repair, benefit and welfare of any recreational facilities or maintenance service easements which might hereafter be established in Columbia Lakes;

(ii) Street lighting services;

(iii) Maintenance of streets, paths, parks, parkways, esplanades, resident security, mosquito control;

(iv) Payment of necessary expenses of the Architectural Control Committee or any other Committee created pursuant to this instrument; and

(v) Generally for doing any other thing necessary or desirable in the opinion of the Developer or following the establishment of the Columbia Lakes Maintenance Fund Committee, by such Committee, to maintain or improve the property or the Subdivision.

The use of the Maintenance Fund for any of these purposes is permissive and not mandatory, and the decision of the Developer or following the establishment of the Columbia Lakes Maintenance Fund Committee, by such Committee, with respect thereto shall be final, so long as made in good faith.

7. In order to secure the payment of the maintenance charge hereby levied, a lien shall be and is hereby reserved in this Instrument of Restrictions which lien shall be enforceable through appropriate judicial proceedings by the Developer on any Lot or Lots held to be delinquent in payments. Said lien shall be deemed subordinate to the lien or liens of any bank, insurance company or savings and loan association ("Institutional Lender") which hereafter lends money for the purchase of any property in the Subdivision, and/or for the construction (including improvement) and/or permanent financing of improvements on any such property. All past due maintenance charges shall bear interest from their due date at 8% per annum until paid.

8. At such time as Developer shall desire to relinquish any or all of its powers, obligations and responsibilities in the collection and administration of the Maintenance Fund as hereinabove provided, the Developer shall cause a statement of such circumstances to be placed of record in the Deed Records of Brazoria County, Texas, as heretofore mentioned. Thereupon, the Lot owners in Columbia Lakes may by vote, as hereinafter provided, elect a committee of three (3) members to be known as the Columbia Lakes Maintenance Fund Committee (herein referred to as the "Maintenance Fund Committee"). Each member of the Maintenance Fund Committee must be an owner of property within the Subdivision. Lot owner(s) shall be entitled to one (1) vote for each whole Lot owned by such owner(s). In the case of any building site composed of more than one (1) whole Lot, such building site owner(s) shall be entitled to only one (1) vote for each whole Lot contained within such building site.

The Developer shall be obligated to arrange for the holding of such election within sixty (60) days following the filing of the aforesaid statement by the Developer in the Deed Records of Brazoria County, Texas, and to give notice of the time and place of such election (which shall be in Brazoria County, Texas) not less than five (5) days prior to the holding thereof. Nothing herein shall be interpreted to require that the Developer actually file any such statement so long as it is willing to continue administering the Maintenance Fund.

Votes of owners shall be evidenced by written ballot furnished by the Developer (or the Maintenance Fund Committee, after the initial election) and the Developer (or the Maintenance Fund Committee, after the initial election) shall maintain said ballots as a permanent record of such election for a period of not less than four (4) years after such election. Any owner may appoint a proxy to cast his ballot in such election, provided that his written appointment of such proxy is attached to the ballot as a part thereof.

The results of each such election shall be determined on the basis of a majority of the votes cast in such election.

The results of any such election and of any removal or replacement of any member of the Maintenance Fund Committee may be evidenced by the recording of an appropriate instrument properly signed and acknowledged in behalf of the Developer or by the nominee or designee of said owner(s) voting in such election.

After the first such election shall have been held, thereafter the Maintenance Fund Committee shall be obligated to arrange for elections (in the manner and after notice as set forth above) for the removal and/or replacement of Maintenance Fund Committee Members when so requested in writing by the owner(s) of thirty (30) or more Lots in the Subdivision. Members of the Maintenance Fund Committee, may, at any time, be relieved of their position and substitute members therefore designated by vote as set forth above.

Upon the death, resignation, refusal or inability of any member of the Maintenance Fund Committee to serve, the remaining members of the Maintenance Fund Committee shall fill the vacancy by appointment, pending an election as herein-above provided for.

If the Maintenance Fund Committee should fail or refuse to take any action herein provided to be taken by the Maintenance Fund Committee with respect to setting elections, conducting elections, counting votes, determining results and evidencing such results, or naming successor Maintenance Fund Committee members, and such failure or refusal continues for a period which is unreasonably long (in the exclusive judgment of the Developer), then the Developer may validly perform such function.

## VII.

### STANDBY WATER AND SEWER CHARGE

1. Water and sewer service will be provided to the Subdivision by the Varner Creek Utility District (the "District"), which is required to extend, in an orderly manner, water, sewer, and drainage facilities to serve the Lots within the Subdivision. In consideration for the

District's agreeing to extend these facilities, the District shall be paid by the owner(s) of each Lot in the Subdivision as herein provided a standby water and sewer charge for the availability of water. Such charge may be imposed by the District from time to time; however, in no event shall such charge exceed sixty dollars (\$60.00) per Lot per year (\$5 per month).

2. Each Lot (or residential building site) in the Subdivision shall be and is hereby made subject to said standby charge for water and sewer service for the benefit of Varner Creek Utility District or its successor; except that the standby water and sewer charge imposed by the District shall not apply to Lots which do not have available to them water and sewer lines, nor shall the standby charge apply to Lots upon which a residence or other building has been erected. In the latter case, the District shall be required to look solely to its monthly charges for water and sewer service for payment for the availability of water and sewer service.

3. The standby charge for the availability of water and sewer service shall be used by the District for the purpose or purposes it uses other revenues collected from the operation of its water and sewer system. The standby charge shall be paid by the owner of each Lot (or residential building site) not occupied by a residential or other dwelling, in monthly installments, in advance, on or before the 1st day of each month.

4. All matters relating to the assessment, collection, expenditure and administration of the funds received from the standby water and sewer charge shall be determined by the Board of Directors of the District.

5. The standby water and sewer charge, at the request of the District, shall be collected by the Developer or his designee and paid over to the District to be held and used by the District in such a legal manner as the District may desire.

6. In order to secure the prompt payment of the standby water and sewer charge which may be imposed by the District from time to time, a lien shall be and is hereby reserved in this Instrument of Restrictions, which lien shall be enforceable through appropriate judicial proceedings by District on any Lot or Lots held to be delinquent in payments. The lien reserved for the benefit of the District, shall be deemed to be subordinate to the lien or liens of any bank, insurance company, savings and loan association or other institutional lender which hereafter lends money for the purchase of any property in the Subdivision and/or for the construction (including improvements) and financing of improvements on any such property.

7. These provisions, as to the standby water and sewer charge, shall continue in effect for a term of twenty-five (25) years.

**VIII.**

**TRANSFER OF FUNCTIONS OF THE DEVELOPER**

The Developer may at any time hereafter cause one or more corporations, nonprofit or otherwise, to be organized for the purpose of exercising all or any of the duties and prerogatives of the Developer hereunder (including the matters relating to the Architectural Control Committee, Maintenance Fund and the standby water and sewer charge). Any such delegation of authority and duties shall serve to release automatically the Developer from further liability with respect thereto and vest such duties and prerogatives in such corporation. Any such delegation shall be evidenced by an appropriate instrument amending this instrument, placed of record in the Deed Records of Brazoria County, Texas, and joined in by the Developer and the aforesaid corporation but not, however, requiring the joinder of any other person in order to be fully binding, whether such other person be an owner of property in the Subdivision, a lienholder, mortgagee, Deed of Trust beneficiary or any other person. Such corporation (s) shall succeed to the powers of the Developer to relinquish their respective powers, duties and responsibilities to an Architectural Control Committee or Columbia Lakes Maintenance Fund Committee, as hereinabove provided.

**IX.**

**BINDING EFFECT**

All of the provisions hereof shall be covenants running with the land thereby affected. The provisions hereof shall be binding upon and inure to the benefit of the owners of the land affected and the Developer and their respective heirs, executors, administrators, successors and assigns.

WITNESS our hands at Houston, Texas, on this the 18th day of July, 1972.

TENNECO REALTY DEVELOPMENT CORPORATION

Tenneco Realty Development  
Corporation  
Corporate Seal  
Delaware  
1971

Kenneth H. Klopp  
By.....  
Kenneth H. Klopp, President

**ATTEST:**

L. R. Spence  
.....  
L. R. Spence, Secretary

BEFORE ME, the undersigned authority, on this day personally appeared Kenneth H. Klopp, known to me to be the person whose name is subscribed to the foregoing instrument as President of TENNECO REALTY DEVELOPMENT CORPORATION, and acknowledged to me that he executed the same for the purpose and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.



GIVEN UNDER MY HAND AND SEAL OF OFFICE, on this 18th day of July, 1972.

NOTARY PUBLIC COUNTY OF HARRIS, TEXAS

LURENE E. WILLIAMS  
Notary Public in and for  
Harris County, Texas