

*Amend*

095-86-1795

J710721

AMENDMENT AND MODIFICATION OF  
RESTRICTIONS AND COVENANTS GOVERNING  
PROPERTY AND LOTS IN THORNWOOD, SECTION IV,  
AN ADDITION IN HARRIS COUNTY, TEXAS

*is*

STATE OF TEXAS §  
COUNTY OF HARRIS § KNOW ALL MEN BY THESE PRESENTS; THAT:

WHEREAS, by an instrument dated October 30, 1969, certain restrictions and covenants were established affecting Thornwood, Section IV, a subdivision, the plat of which is recorded in the map records of Harris County, Texas in Volume 164, Page 84. The instrument establishing said restrictions and covenants was recorded in the Real Property Records of Harris County, Texas in Volume 7834, Page 312 said instruments and the restrictions and covenants contained therein is hereinafter referred to as "the Restrictions", and;

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WHEREAS, the restrictions provide that the restrictions and covenants may be changed by the execution by a majority of the Owners of the property of an instrument affecting changes in whole or in part and filing for record of the same, and;

WHEREAS, Thornwood Section IV is a part of a community known generally as "Thornwood" and more particularly as Thornwood Section One, Thornwood Section II, Thornwood Section III and Thornwood Section IV, and;

WHEREAS, it is desirable, will benefit the Owners of Lots in Thornwood Section One, Thornwood Section II, Thornwood Section III, and Thornwood Section IV, and will enhance and preserve the value of property therein to modify and amend the existing restrictions so as to make them uniform throughout the several sections of Thornwood and cause the restrictions to meet the current needs of the community and its residents.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the premises heretofore and hereinafter recited, we the undersigned, being a majority of the Owners of Lots in the said Thornwood Section IV, in the exercise of our right to amend the restrictions, declare as follows:

ARTICLE ONE

Thornwood Fund, Inc., a Texas non-profit corporation is hereby designated the agent for the administration of the civic affairs of Thornwood Section IV, which agency shall include the collection and expenditure of maintenance funds as hereinafter provided and the enforcement of the restrictions and covenants

Return to: C. Robert Keeney, JR  
2500 EAST KC. JESTER  
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RECORDER'S MEMORANDUM  
This instrument was damaged at the time received for filing

hereinafter established with respect to Thornwood Section IV. Nothing contained herein shall be deemed to preclude the Owner of any Lot from enforcing these restrictions in his own name or from bringing an action at law or in equity to preserve or protect his interest in his property or to enforce his rights as set forth herein.

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#### ARTICLE TWO

2.01 "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of the fee simple title to any Lot or portion of a Lot on which there is or will be built a detached single family dwelling, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

2.02. "Lot" shall mean and refer to that portion of any of the plots of land shown upon the plat and subdivision map recorded in Volume 164 at Page 84 of the Real Property Records of Harris County, Texas, on which there is or will be built a single family dwelling. The term "Lot" shall not include the Common Area nor any other reserves shown on the said map or plat.

#### ARTICLE THREE

3.01 There is hereby established an Architectural Control Committee consisting of not less than three (3) qualified persons, which committee shall serve at the pleasure of Thornwood Fund, Inc. Such committee shall be appointed by the President of Thornwood Fund, Inc. at the meeting of the Trustees next following the annual meeting and election of officers of the corporation.

3.02 No building, fence, wall, or other structure shall be commenced, erected, or maintained upon any Lot in the subdivision, nor shall any exterior addition to, or change or alteration therein, be made, including without limitation, changes in roofs and/or roofing materials, nor shall any substantial or material modification of landscaping of any Lot or Lots be undertaken, until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to, and approved in writing by, the Architectural Control Committee as to harmony of external design and location in relation to surrounding structures and topography.

3.03 In the event that any plans and specifications are submitted to the Architectural Control Committee as provided herein, and such Committee shall fail either to approve or reject such plans and specifications for a period of thirty (30) days following such submission, approval by the Committee shall not be

required, and full compliance with this Article shall be deemed to have been had. In the event such plans and specifications are disapproved by the Architectural Control Committee, then the Owner requesting such approval may submit such plans and specifications to the Board of Trustees of Thornwood Fund, Inc. with a request for approval at the next regularly scheduled meeting of the Trustees following the disapproval of said plans and specifications by the Architectural Control Committee. The decision of the Board of Trustees in this regard shall be final and conclusive.

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#### ARTICLE FOUR

4.01 In the event an Owner of any Lot shall fail to maintain the premises and the improvements situated thereon in a neat and orderly manner, Thornwood Fund, Inc. shall have the right, through its agents and employees to enter upon said Lot and to repair, maintain, and restore the Lot and exterior of the buildings and any other improvements erected thereon, all at the expense of Owner. The Owner of any Lot upon which there presently exists a gas light shall maintain said gas light in good and safe working order and to keep said gas light in continuous operation for the purpose of illumination of the subdivision.

#### ARTICLE FIVE

5.01 All Lots shall be used for single family residential purposes only.

5.02 No building shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single family dwelling not to exceed two stories in height and a private garage for not more than three (3) automobiles.

5.03 Any single story residence constructed on said Lots must have a ground floor area of not less than 2,000 square feet, exclusive of open or screened porches, terraces, patios, driveways, carports, and garages. Any residence other than a single story residence must have not less than 1,300 square feet of ground floor living area, exclusive of open or screened porches, terraces, patios, driveways, carports, and garages. The front and each side exterior walls of any residence shall consist of not less than 51% masonry construction.

5.04 No building shall be located on any Lot nearer to the front Lot line or nearer to the side street line than the minimum building set back lines shown on the recorded plat. No side yards at the front building set back line shall be less than five (5) feet. For the purpose of this covenant, eaves, steps, and open porches shall not be considered as a part of the building; provided, however, that this shall not be construed to permit any portion of the building

on any Lot to encroach upon another Lot. If two or more Lots, or fractions thereof, are consolidated into a building site in conformity with the provisions of Paragraph 5.05, these building set back provisions shall be applied to such resultant building site as if it were one original, platted Lot.

5.05 None of said Lots shall be subdivided in any fashion except that any person owning two or more adjoining Lots may consolidate such Lots into a single building site, with the privilege of constructing improvements as permitted in Paragraphs 5.02 and 5.03 hereof on such resulting building site.

5.06 The provisions of Sections 5.02, 5.03, 5.04, and 5.05 of this Article shall not apply to any residence which do not comply with the standards set forth in said sections of this Article if said residence exists at the time this document is filed for record in the deed records of Harris County, Texas. If any such residence shall be destroyed, demolished, or razed after the effective date of this instrument, then any replacement residence and the appurtenances thereto shall be subject to the restrictions set forth in Sections 5.02, 5.03, 5.04 and 5.05 of this Article 5.

5.07 Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. No utility company, water district, political subdivision, or other authorized entity using the easements hereinafter referred to shall be liable for any damage done by them or their assigns, agents, employees, or servants, to shrubbery, trees, or flowers, or to other property of the Owner situated within any such easement.

5.08 No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

5.09 No structure of a temporary character, trailer, mobile home, basement, tent, shack, garage, or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.

5.10 No signs of any character shall be allowed on any Lot except one sign of not more than five square feet advertising the property for sale or rent.

5.11 No oil well drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted on a Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted on any Lot. No derrick or other structure designated for use in boring for oil,

natural gas, or other minerals shall be erected, maintained, or permitted on any Lot.

5.12 No Lot 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.

5.13 No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose.

5.14 No fence, wall, or hedge shall be placed, or permitted to remain, on any Lot nearer to the street or streets adjoining such Lot than is permitted for the main residence on such Lot, except for decorative subdivision entry fences.

5.15 No shrub or tree planting which obstructs sight lines at elevations between two and six feet above the roadway shall be planted or permitted to remain on any corner Lot within the triangular area formed by the curblines of such intersecting streets and a line connecting such curbline at points twenty-five feet from their intersection, or, in the case of a rounded corner, from the intersection of the curblines as extended. The same sight line limitations shall apply on any Lot within ten feet of the intersection of a street curbline and the edge of a driveway. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at a height of more than six feet above ground level.

5.16 Except as hereinafter provided, no truck, bus, camper, recreational vehicle, boat, or trailer shall be left parked in the street in front of any Lot except for construction and repair equipment while a residence or residences are being built or repaired in the immediate vicinity, and no truck, bus, camper, recreational vehicle, boat, or trailer shall be parked on the driveway or any portion of the Lot in such a manner as to be visible from the street. There are specifically exempted from the provisions of this section those vehicles commonly known as pickup trucks, which are used primarily for the regular transportation of the Owner of any Lot or the family members of any such Owner and trucks and vans designed for transportation of passengers, (such as those vehicles known by the trade names of "Blazer", "Bronco", "Suburban Wagon", and those vehicles of a similar type) and which are primarily used for the regular transportation of the Owners of Lots in the subdivision and their family members.

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5.17 No professional, business, or commercial activity to which the general public is invited shall be conducted on any Lot.

#### ARTICLE SIX

6.01 All easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the plat recorded in Volume 169 at Page 84 of the Map and Plat Records of Harris County, Texas. Right of use for ingress and egress shall be had at all times over any dedicated easement, and for the installation, operation, maintenance, repair, or removal of any utility, together with the right to remove any obstruction that may be placed in such easement which would constitute interference with the use, maintenance, operation, or installation of such utility.

6.02 An electric distribution system has been installed to serve all Lots in the subdivision. The Owner of each Lot shall, at his own cost and expense, furnish, install, own, and maintain (all in accordance with the requirements of local governmental authorities and the National Electrical Code) a service cable and appurtenances from the meter installed upon the Lot by the electric company to such point as may be designated by such company on the property line of such Lot. The company furnishing electric service shall make the necessary connection at the property line and at the meter. Each Owner shall also install, furnish, own, and maintain at his own cost and expense a meter loop (in accordance with the then current standards and specifications of the electric company) for the residence constructed on the Lot. For so long as service is maintained, the electric service to each Lot shall be uniform in character and exclusively of the type known as single-phase 120/240 volt, 3-wire, 60 cycle alternating current.

#### ARTICLE SEVEN

7.01 Each residential Lot in Thornwood Section IV, is hereby subjected to an annual maintenance charge in an amount determined as hereinafter set forth.

7.02 The maintenance charge provided for herein shall be payable to Thornwood Fund, Inc., and shall be used for the benefit of the uniform management of the civic affairs of Thornwood Section One, Thornwood Section II, Thornwood Section III, and Thornwood Section IV. Such funds shall be used for the payment of expenses for maintenance, street lighting if such street lighting shall in the future be installed, fogging for insect control, caring for and watering transplanted trees on vacant lots, for back door garbage and rubbish pick-up, for security services, maintaining and repairing swimming pools and appurtenances

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thereto, maintaining and improving the parks in green belt areas within the subdivision, for enforcement of these restrictions, and doing any other things necessary or desirable, in the opinion of Thornwood Fund, Inc. to maintain or improve the property, or the subdivision, or that which is considered of benefit to the Owners or occupants of this subdivision. The use of the maintenance charge money for any of these purposes is permissive and not mandatory and the decisions of the Thornwood Fund, Inc. shall be final, so long as made in good faith. No Owner may exempt himself or be exempted from the payment of the maintenance charge herein prescribed on the basis that he is not accepting or is not receiving the service or benefits described above. Thornwood Fund, Inc. shall have no obligation however, to provide any such service or benefit to Owners or to Lots for which the maintenance charge has not been paid. It is specifically provided by this instrument that a fee for the use of the swimming pools within the subdivisions may be charged by Thornwood Fund, Inc., which fee shall be in an amount set by the Trustees of Thornwood Fund, Inc. and which shall be in addition to and not in lieu of the maintenance assessment referred to herein. Such fee shall be charged only to those Owners who use the pools and appurtenances thereto.

7.03 Each Owner of a Lot or Lots in Thornwood Section IV shall by virtue of his ownership be a voting member of Thornwood Fund, Inc. at the annual meeting of the membership beginning with the annual meeting next following the execution and recording of these restrictions or a meeting called for that purpose. Each Owner as that term is defined in Article Two, Section 2.01, above shall be entitled to one (1) vote whether or not such Owner is in fact more than one (1) natural person. The annual meeting of the members shall be held in the month of September with the first such annual meeting being in the month of September next following the execution and filing of this Amendment. The Board of Trustees shall submit to the membership a proposed budget for the succeeding year which budget shall detail the anticipated expenditures for the purposes described in paragraph 7.02 above and for such other purposes as may be deemed appropriate by Thornwood Fund, Inc. for the civic betterment or maintenance of Thornwood. The proposed budget shall be put to a vote and deemed adopted if approved by a majority of the members voting either in person or by proxy. If adopted, the budget shall form the basis for the annual maintenance charge referred to in paragraph 7.01 above. Each Owner and each residential Lot shall be assessed a

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pro rata share of the total amount budgeted. Such pro rata share being 1/38<sup>th</sup> of the total. Thornwood Fund, Inc. shall not expend or become obligated to expend in any budget year any amount greater than the amount set forth in the budget approved and adopted by the membership. In the event the necessity for expenditures in excess of the amount approved by the members arises, or in the event of a necessity of an extraordinary expenditure arises, no such expenditure shall be made and no obligation shall be created therefore unless and until a revised or supplemental budget is submitted to the members at a special meeting called for that purpose and such revised or supplemental budget is approved by a majority of the membership voting either in person or by proxy. If such revised or supplemental budget is approved, a special assessment shall be made to each Owner.

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7.04 Each Owner of a residential Lot and/or at the option of Thornwood Fund, Inc., an agent of the Owner designated by the Owner to receive notice shall be notified in writing of the amount of the annual maintenance charge assessed or any special assessment. Such amount shall be due and payable in full on or before the thirtieth (30th) day after notification. All charges unpaid as of that time shall be deemed delinquent. A late charge in an amount determined by the Board of Trustees of Thornwood Fund, Inc. may be assessed on all such delinquent assessments.

7.05 The annual maintenance charge assessable against any Lot together with any late charges shall, when due, constitute a lien against such Lot and the improvements thereon in favor of Thornwood Fund, Inc. Said lien shall be prior and superior to all other liens except (i) assessment liens and taxes due and unpaid against any Lot and/or the improvements thereon and (ii) payments due under bona fide purchase money mortgages duly recorded.

7.06 Thornwood Fund, Inc. may bring an action based on the debt against any owner who is obligated to pay the maintenance charge referred to above or to foreclose the lien herein established or both. In the event any such action is required, interest, costs, and reasonable attorneys fees shall be added to the assessment. Any such action shall be brought in the name of Thornwood Fund, Inc. and shall be for the common benefit of all Owners of Lots in Thornwood.

7.07 Any mortgagee, upon request, will be notified by Thornwood Fund, Inc. of any failure to pay the maintenance charge or any other breach of these



restrictions by any Owner, at least thirty (30) days prior to the commencement of any action by Thornwood Fund, Inc.

#### ARTICLE EIGHT

8.01 Thornwood Fund, Inc. or any Owner 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 instrument. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

8.02 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.

8.03 The covenants, conditions, and restrictions of this instrument shall run with the land, and shall inure to the benefit of, and be enforceable by, the undersigned or the Owner of any Lot subject to this instrument and their respective legal representatives, heirs, successors, and assigns, and, unless amended as provided herein, shall be effective for a term of twenty (20) years from the date this instrument 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 instrument may be amended during the first twenty (20) year period or during any succeeding ten (10) year period, by an instrument in writing signed by not less than 51% of the Lot Owners. No amendment shall be effective unless filed in the Real Property Records of Harris County, Texas, nor until the approval of any governmental regulatory body which is required shall have been obtained.

#### ARTICLE NINE

9.01 This instrument is executed by the undersigned, constituting a majority of the Owners of Lots in Thornwood Section IV as an amendment, modification and restatement of existing covenants and restrictions. This instrument shall not be effective and shall not be filed for record unless similar documents containing identical restrictions and covenants are executed by a majority of the Owners of Lots in Thornwood Section II and Thornwood Section III and by 51% of the Owners of Lots in Thornwood Section One and unless said documents are also filed for record.

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