

DECLARATION OF COVENANTS,  
RESTRICTIONS AND EASEMENTS FOR  
WYNDEMERE ADDITION

**CENTEX REAL ESTATE CORPORATION, a Nevada corporation**  
("Declarant") makes this declaration of covenants, restrictions and easements  
("Declaration") as of October 31, 1994.

**WHEREAS, Declarant is the fee owner of certain real property legally described on the attached Exhibit A (the "Property"); and**

**WHEREAS, Declarant believes that the establishment of the covenants, restrictions and easements set forth in this Declaration will provide certain amenities to and preserve the value of the Property.**

**WHEREAS, Declarant may, in the future, wish to subject all or part of the real property legally described on the attached Exhibit B (the "Additional Real Estate") to the provisions of this Declaration; and**

**NOW THEREFORE, Declarant declares that the Property and any Additional Real Estate hereafter submitted to the terms of this Declaration in accordance with the provisions of Section 5.1 is and shall be held, transferred, conveyed and occupied subject to the covenants, restrictions and easements set forth in this Declaration.**

**Section 1. Scope.**

**1.1 The terms of this Declaration shall be binding on Declarant and Declarant's successors and assigns. The covenants and restrictions set forth in this Declaration shall run with the Property and any Additional Real Estate submitted to the terms of this**

**Declaration in accordance with the provisions of Section 5.1 and shall inure to the benefit of and be binding on all entities having any right, title or interest in the property and their heirs, successors and assigns in perpetuity subject to the provisions of Minn. Stat. § 500.20(2a) (1992) or other, similar laws providing for the automatic termination of covenants or restrictions relating to the use or development of real property. Notwithstanding the above, this Declaration is subject to amendments, including amendments modifying, terminating or extending the provisions of this Declaration, as provided in Section 8.3.**

**Section 2. Definitions.**

**2.1 "Additional Real Estate" shall mean all or any part of the real property legally described on the attached Exhibit B.**

**2.2 "Association" shall mean Wyndemere Homeowners Association, a Minnesota non-profit corporation which Centex has established to enforce the covenants and restrictions set forth in this Declaration and to levy and collect assessments for the maintenance of and to maintain entrance monuments and landscaping located in the public right-of-way which serves as the entrance to the subdivision and in the private easements in favor of the Association described in Section 6.2.**

**2.3 "Declarant" shall mean Declarant or any and all successors or assigns of Declarant to whom Declarant specifically assigns all or some of the Special Declarant Rights set forth in Section 5 hereof.**

**2.4 "Lot" shall mean each platted lot which is part of the Property and each lot depicted on any future subdivision plats for all or any portion of the Additional Real**

**Estate that a Declarant submits to the terms of this Declaration pursuant to the provisions of Section 5.1; provided such subdivision plat(s) is or are recorded or filed in the appropriate County land records.**

**2.5 "Owner" shall mean the fee owner(s) of a Lot as reflected in the appropriate County Land records and shall include a Declarant if a Declarant holds fee title to any Lot. If the fee owner(s) of a Lot have entered into a Contract for Deed to convey title to a Lot, the fee owner(s) and the Vendee(s) under such Contract for Deed shall each be deemed to be an "Owner" of the Lot.**

**2.6 "Property" shall mean the real property legally described on the attached Exhibit A.**

**2.7 "Residential Structure" shall mean a free-standing single-family dwelling that:**

**(a) A Declarant or an agent acting with the authority of a Declarant has constructed; or**

**(b) An individual or entity other than a Declarant or an agent acting with the authority of a Declarant has constructed provided that such Residential Structure conforms in size, architectural style, and quality of construction with Residential Structures constructed pursuant to Section 2.7(a) above.**

**All Residential Structures shall include an attached garage suitable for a minimum of two (2) automobiles; shall not exceed three (3) stories in height; and shall comply with all applicable municipal ordinances, including setback requirements.**

**2.8 "Special Declarant Rights" shall mean the rights set forth in Section 5 of this Declaration.**

**Section 3. Development of Lots.**

**3.1 All Lots shall be used only for residential purposes and no more than one Residential Structure shall be allowed on each Lot.**

**3.2 No structures other than the one Residential Structure provided for in Section 3.1 and other structures specifically provided for in this Section 3 shall be allowed on any Lot.**

**3.3 An Owner may construct fencing on the Owner's Lot provided the material(s) and color(s) of the fencing are compatible with the material(s) and color(s) of the Residential Structure(s) and existing fences located both on that Owner's Lot and in the neighborhood. No chain-link fencing shall be allowed as perimeter fencing on any part of a Lot.**

**3.4 No dog runs or dog houses shall be allowed on Lots except that dog runs not exceeding 6 feet in height, 100 sq. feet in area or 10 feet in any horizontal dimension and dog houses not exceeding 4 feet in height or 5 feet in any horizontal dimension which are constructed of building materials compatible with the building materials used to construct the Residential Structure constructed on the same Lot shall be allowed on Lots provided such dog runs or dog houses are at all times reasonably screened from ground level view from any portion of the Property or public street by adequate, permissible fencing or landscaping. Chainlink fencing is not, in and of itself, adequate to reasonably screen a dog house or dog run from ground level view.**

**3.5 Children's play equipment, shall be allowed in the rear yards of Lots, provided such play equipment does not exceed 200 square feet in its horizontal dimensions or 12 feet in any vertical dimension.**

**3.6 An inground or seasonally permanent above ground pool shall be allowed on a Lot only if such pool is enclosed within fencing which meets the requirements of Section 3.3, screens the pool from ground level view and reasonably prevents unauthorized access to the pool area. All pools must be continuously maintained in conformity with all applicable municipal ordinances.**

**3.7 No television satellite dishes over 2 feet in diameter, radio or television towers or antennas, electric generating windmills or other similar structures shall be permitted on any Lot or on any improvements located on any Lot.**

**Section 4. Use of Lots.**

**4.1 Tents shall not be erected or maintained on any Lot for a period of more than 48 hours.**

**4.2 No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done upon any Lot which may be or become an annoyance to the neighborhood, including, but not limited to, leaving a dog or dogs unattended in a dog run or dog house if the dog creates a disturbance or failing to maintain pet areas in a well kept, clean condition.**

**4.3 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 on a Lot provided**

that they are not kept, bred or maintained for any commercial purpose. No more than 2 cats and no more than 2 dogs shall be kept on any Lot at any one time.

4.4 No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept on a Lot except in covered, sanitary containers. All equipment used for the storage or disposal of waste material shall be kept in a clean and sanitary condition. Incinerators shall not be allowed on any Lot.

4.5 No sign of any type shall be displayed to the public view on any Lot except one sign of no more than five square feet used by the Owner or the Declarant or other builder to advertise the Lot for sale or for rent. An exception to the above are subdivision signs or permanent monuments installed by Declarant. In addition to the above, all signs erected on a Lot shall conform to Municipal Ordinances as amended from time to time or variances thereto approved by the local City Council.

4.6 No trailers, motorcycles, boats, buses, motor homes, campers, snowmobiles or other types of recreational vehicles shall be parked on any Lot or in the street adjacent to any Lot for more than 48 consecutive hours unless such vehicle is parked within the garage portion of a Residential Structure. Motor vehicles shall not be stored outside for more than 48 consecutive hours.

#### **Section 5. Special Declarant Rights.**

5.1 Within ten years from the date hereof, a Declarant may, at any time and without the consent of any Owners execute an amendment or amendments to this Declaration submitting all or a part of any Additional Real Estate that the Declarant owns to the covenants and restrictions contained herein. Such amendments may contain

such complementary additions to and modifications of the covenants, restrictions and easements contained in this Declaration as may be necessary to reflect the different character, if any, of the Additional Real Estate. Such Amendments shall not, however, expand, revoke or modify the covenants, conditions, restrictions or easements affecting existing Lots unless the amendment complies with the requirements of Section 0.3. Such amendment(s) shall take effect when recorded or filed in the appropriate County land records.

5.2 So long as any Declarant shall own any Lot or Outlet or retain the right to submit all or part of the Additional Real Estate to the terms of this Declaration, such Declarant shall have the right to enforce the provisions of this Declaration through an action in Dakota County District Court seeking damages, a Temporary Restraining Order, a Temporary or Permanent Injunction and any other appropriate relief.

5.3 So long as Declarant is the Owner of any Lot, Declarant shall have the right to construct or authorize an agent to construct Residential Structures on that Lot pursuant to Section 2.7 hereof.

#### Section 6. Easements.

6.1 The recorded plats creating the Lots dedicate public utility and drainage easements. Within the utility and drainage easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, change the direction of flow of drainage channels in the easements, obstruct or retard the flow of water through drainage channels in the easements, or otherwise interfere with use and enjoyment of the easement. Except as

provided in Section 6.2 below, Owners shall maintain the public utility and drainage easement area of each Lot and all improvements in it, except for those improvements for which a public authority or utility company is responsible.

6.2 Declarant hereby declares a perpetual, non-exclusive easement in gross in favor of the Association (the "Easement") over and across the real property legally described in the attached Exhibit C (the "Easement Area"). The purpose of the Easement is to give the Association the right to enter on to the Easement Area to maintain grades and landscaping in the Easement Area and to exclude Owners from constructing any structures, including structures permitted under Section 3 and from maintaining grades and landscaping in the Easement Area. Association may elect to maintain all, part or none of the landscaping in the Easement Area. Owners shall be responsible for maintaining landscaping which the Association elects not to maintain. Owners may not maintain landscaping which the Association elects to maintain. The Association shall notify Owners of the portion of the landscaping in the Easement Area which the Association elects to maintain. Notwithstanding the foregoing, the Association's Board may, in its sole and absolute discretion, allow Owners to construct structures which are permitted under Section 3 in the Easement Area. Owners may maintain any and all landscaping in the Easement Area until the Association notifies them of the portion of the landscaping in the Easement Area which the Association elects to maintain.

#### Section 7. The Association.



Section 7.1 All Owners shall be members of the Association, as provided in Article II, Section 1, of the Association's Bylaws, and each Owner shall be subject to the terms and conditions of the Association's Bylaws including, specifically, the provisions of Article V of the Bylaws which authorize the Association's Board to levy an annual assessment and, in certain circumstances, special assessments, against the Lots, Except as set forth in this Section 7.1 and in Section 7, Article V of the Bylaws each Owner is personally liable for the payment of annual and special assessments as provided for in Article V, Section 6 of the Bylaws. The obligation to pay assessments shall run with the land and be binding on an Owner's successor's and assigns. Unpaid Assessments shall not constitute a lien against an Owner's Lot. A first mortgagee who acquires title to a Lot through foreclosure of a first mortgage shall be deemed an Owner but shall not be liable for unpaid assessments existing at the time the first mortgagee acquires title to the Lot and shall not be liable for assessments accruing during the first mortgagee's ownership of the Lot.

Section 7.2 The Association shall have the right to maintain and, if necessary, replace landscaping located in the Easement described in Section 6.2 of this Declaration and to maintain, repair and replace landscaping and entrance monuments located in the public right-of-way which serves as the entrance to Wyndemere Addition from 140th Street West all in the manner and to the extent that the Association's Board of Directors deems appropriate. The Association shall also have the right to enforce the covenants and restrictions set forth in the Declaration in a manner and to the extent that the Association's Board of Directors deems appropriate.

Section 8. Miscellaneous.

8.1 Invalidation of any one or more of the provisions herein by Judgement or Court Order shall not affect any of the other Provisions, and these shall remain in full force and effect until the date of expiration.

8.2 Each Declarant, each Owner subject to these provisions and the Association shall have the right to enforce the provisions of this Declaration in his/her own name by proceedings at law to recover damages or at equity to restrain violations, against any person violating or attempting to violate any provision hereof. If the Association is a party to any action to enforce the Provisions of this Declaration and the Association prevails in such action, the Association may recover its attorney's fees and costs from the non-prevailing party.

8.3 Except for amendments made in conformity with the provisions of Section 5.1 hereof, which a Declarant is authorized to make without the approval of other Owners, the provisions of this Declaration may not be amended except by a vote of at least 51% of the Owners provided, however, if there are two or more Owners of a particular Lot, they are, as a group, entitled to only a single vote for or against an Amendment. Owners shall be entitled to one vote for each Lot owned. To be effective, such amendment must be properly recorded along with a certificate certifying that the amendment was approved by at least 51% of the Owners which shall be sufficient evidence of such fact.