

## PROTECTIVE COVENANTS

The Property shall be developed, improved, sold, used and enjoyed in accordance with, and subject to the following plan of development, including the covenants, conditions and restrictions hereinafter set forth (the "Protective Covenants"), all of which are hereby adopted for, and placed upon said Property and shall run with the Property and be binding upon all parties, now and in any time hereafter, having or claiming any right, title or interest in the Property or any part thereof, their heirs, executors, administrators, successors and assigns, regardless of the source of, or the manner in which such right, title or interest is or may be acquired; provided, however, these Protective Covenants shall cease to exist and be of no further force or effect any time that title to the Property is revested in Grantor, its successors or assigns. **If the property is sub-divided, the provisions of these Protective Covenants shall apply to each subdivided parcel.**

1. Use. The Property may be used in whole or in part for any Retail, Commercial, Professional Office, Restaurant/Lounge, Dinner Theater or Hotel use, including facilities customarily incident thereto, but for no other purpose or purposes, provided, however, from and after twenty (20) years from the date of the conveyance of the Property from Grantor to Grantee, the Property may be used in whole or in part for any commercial or office use but only so long as all buildings, structures, additions, signs and other improvements erected or maintained thereon (i) are in harmony of design with, the buildings, structures, additions, signs, and other improvements if any, located on adjoining Property, and (ii) are in conformance with these Protective Covenants, but only so long as all buildings, structures, additions, signs and other improvements erected or maintained thereon are in conformance with these Protective Covenants.

The Property may not be used in whole or in part for the operation of (a) a garage or automobile service facility; (b) a gasoline service station or other establishment for the sale of motor fuel or other petroleum or energy products; (c) an adult assisted living facility; (d) a day care facility; (e) a storage facility; (f) a dry cleaning facility or (g) a grocery store.

2. Grantor Approval Required. No building, structure, addition, sign, or other improvement may be constructed, remodeled, replaced or altered in any manner on the Property until the construction plans and specifications (including, but not limited to, site layout, building and sign location, building material, dimensions, elevations, grading and drainage plans, utility layout, the design and color scheme of all permanent and temporary signs, site and off-street parking of vehicles, landscaping and exterior lighting) have first been submitted to and approved in writing by Grantor. Such approval shall be to (a) insure compliance with these Protective Covenants and with Grantor's Development Guidelines (the "Development Guidelines") adopted and promulgated and amended from time to time by Grantor for said Property and other commercial properties in the area; and (b) confirm the quality of materials, color, harmony of external design with existing and proposed structures, and the location and finish grade elevations of the improvements with the surrounding topography. Architectural review shall include the Purchaser providing copies of the grading and drainage plans for the said property. Purchaser must consider the impact any improvements have on off-site and on-site drainage patterns. In the event should any alterations or improvements placed on the subject Property by Purchaser alter or adversely impact any adjoining property, the Purchaser shall be responsible for correcting this condition to the satisfaction of the adjoining land owner(s).

Reference is here made to the Development Guidelines for all construction, remodeling, replacement or alteration of any building, structure, sign, addition, or other improvement, which Development Guidelines may be amended from time to time by Grantor. The construction,

remodeling, replacement or alteration of any building, structure, addition, sign or other improvement shall comply with the Development Guidelines as they now exist or as they may hereafter be amended. However, such amendments shall not retroactively apply to existing improvements.

Approval of plans and specifications by Grantor is only for the purposes above described and specifically, but without limitation, shall not be construed as any representation by Grantor as to, or responsibility for, design or quality of improvements or the ultimate construction thereof. Any and all plans and specifications submitted to Grantor which have not been disapproved within thirty (30) days after the date of submission shall for all purposes be deemed to have been approved. If Grantor should disapprove plans and specifications submitted to it, other than plans and specifications for a sign, and Grantor and Grantee are not able to resolve such differences within thirty (30) days after disapproval, then, following Grantee's written request therefor, Grantor may, at Grantor's option, repurchase the Property from Grantee, for the original purchase price in cash, and Grantee shall thereupon reconvey the Property to Grantor by special warranty deed free and clear of all liens and encumbrances other than those to which the conveyance of the Property from Grantor to Grantee was subject. The decision of Grantor not to exercise said repurchase option shall in no way impair or alter the obligations of Grantee as set forth herein.

3. Offensive and Prohibited Uses. No use of the Property shall be permitted which is illegal, or offensive in the reasonable opinion of Grantor by reason of odor, fumes, dust, smoke, noise, or pollution, or hazardous by reason of excessive danger of fire or explosion. In addition, no activity or use shall be permitted on or with respect to any part of the Property which is, in Grantor's reasonable opinion, obnoxious to or out of harmony with the development of the immediate community in which the Property is located, including, but not limited to, the operation of (a) any trailer court, junk yard, scrap metal yard or waste material business (including any dumping, disposal, incineration or reduction of garbage or refuse, but this restriction shall not preclude the use of compacting devices on the Property which temporarily hold refuse for disposal off-site when such devices are used in conjunction with a Property use or business which is not a junk yard, scrap metal yard, or waste material business); (b) a used clothing business or a business that specializes in bankruptcy or liquidation sales or the selling of fire damaged items, (c) an auction house or flea market; (d) an office for the practice of veterinary medicine, only if the operation of such veterinary office includes the use of kennels, runs, or any other related facilities located outside the building or other structures constructed in accordance with the Development Guidelines and approved by the ARC (veterinary practices dealing with large animals such as cattle and horses are specifically prohibited); (e) a kennel or business involving the boarding of animals, except in connection with an office for the practice of veterinary medicine, as described in (d) above; (f) a garage, gasoline service station or other establishment for the sale of motor fuel or other petroleum or energy products; (g) a night club, bar, amusement or game room, lounge, or tavern; or (h) an "adult" bookstore, theater, studio, parlor or other facility, any of which show on-premise X-type rated or unrated pornographic motion pictures or video films or provide forms of entertainment appealing to the prurient interests of the general public or would otherwise diminish the reputation or alter the family-oriented character of the community in which the Property is located. No building, structure, addition, sign, or other improvement shall be erected, maintained, or permitted upon any portion of the Property that would be used for the aforesaid offensive and/or prohibited uses.

4. Open Spaces. A minimum of twenty (20) percent of the Property (a) may not be improved by the construction of a building or buildings thereon or be paved or blacktopped for vehicular access or parking and (b) must be landscaped and shall have an irrigation system installed throughout, all in accordance with plans approved by Grantor. Any designated landscape easement within the Property's boundaries may be included in open space calculations.

5. Setbacks. Minimum building and parking setbacks shall be as follows (measured from the property line):

	<u>Building</u>	<u>Parking</u>
From Clear Lake City Boulevard	50'	35'
From all other property lines	10'	10'
From any future roadway	50'	25'

No parking areas and/or paved area for vehicular circulation (except driveways which directly access a public right-of-way) shall be located within any setback area. Existing trees and landscaping located within building and parking setback areas or adjacent street right-of-way shall be fenced during construction activity in order to preserve such existing landscaping. The location of such fencing and access areas shall be subject to written approval by the ARC. Access to the property across the setback areas for construction purposes shall be restricted to the areas designated for permanent driveway access, which are subject to review and approval by the ARC and applicable governmental authority prior to commencement of construction.

6. Building Height. All buildings and improvements erected on the Property shall be limited to a maximum of 2 story in height which shall not extend more than 30' from the slab.

7. Parking Requirements. Automobile parking spaces, sufficient in number for all employees and customers/visitors, shall be provided on-site, and all parking areas shall be internally drained, curbed and paved. Minimum parking requirements/spaces shall be in accordance with the Development Guidelines unless otherwise approved in writing by Grantor.

8. Loading/Unloading. Loading and unloading of delivery vehicles shall occur on-site only; on-street delivery vehicle loading and unloading shall not be permitted. Loading/unloading facilities shall be separated from employee, customer and visitor circulation and parking areas and shall be screened from public view in a manner approved in writing by Grantor prior to construction.

9. Outside Storage or Operations. No outside storage or operations of any kind shall be permitted unless such activity is visually screened from public view in a manner which is architecturally compatible and approved in writing by Grantor prior to construction. No boats, trailers, campers, horse trailers, buses, inoperative vehicles of any kind, camping rigs off truck, boat rigging, or other vehicles or associated equipment of recreational or commercial nature shall be parked or stored permanently, or semi-permanently on the Property or any part thereof unless properly screened from public view in a manner approved in writing prior to construction by Grantor. All retail sales equipment, fixtures and merchandise shall be displayed only in the interior of a building, unless done in a manner approved in writing by Grantor prior to construction. Water towers, cooling towers, communication towers, storage tanks and other structures or equipment shall be architecturally compatible with the aesthetics of the project or effectively shielded from public view. All utility/service system components and trash pick-up stations shall be integrated with the building or screened by a fence or wall of compatible materials not less than eight (8) feet high and shall not be visible above such screening. All fences or walls shall be approved in writing by Grantor prior to construction.

10. Mechanical Equipment. All roof-top mechanical equipment shall be screened from the view of adjacent streets and buildings with material compatible with the building architecture or by the use of parapet wall. Such screening and/or parapet wall shall be equal to or greater than the height of the roof top mechanical equipment. All power transformers shall be ground mounted and screened from public view by fencing or landscaping, all of which must be approved in writing by Grantor.

11. Grading and Drainage. Surface drainage shall be collected on-site and connected to underground storm drain structures. Care shall be taken not to cause damage to adjacent properties during construction or after completion of the project. Grading of the site shall be done without damaging existing trees in proposed open space areas (as defined in Paragraph 4).

12. Underground Utilities. Any pipe, conduit, cable, or line for water, gas, electricity, sewage, drainage, or steam shall not be installed or maintained (a) outside of any building or (b) above the surface of the ground within the Property, unless otherwise approved in writing by Grantor. All transformers shall be ground mounted and all electrical distribution lines underground.

13. Exterior Illumination. Exterior illumination, if such is to be provided, shall be designed to light only buildings, parking areas and walkways and shall not produce glare or splashover on adjacent streets or properties. All ground level floodlighting fixtures shall be depressed or screened from public view in a manner approved in writing by Grantor. Parking area lighting units, arcade lighting or any other lighting shall be in a style and color approved by Grantor.

14. Signs. All signs and their locations must be approved by Grantor in writing prior to installation. No sign of a flashing or moving character shall be installed, and no sign shall project above the roof line of a building unless approved in writing by Grantor. Any sign installed without Grantor's approval may be removed by Grantor, without liability for trespass or other legal wrong in Grantor. For the purposes of this provision signing shall include, without limitation, flags and flagpoles, awnings, mobile trailer signs, canopies, banners, and advertising placed on walls, automobiles, windows, or other objects located on the Property.

15. Prohibited Structures. No metal fabricated buildings, trailers, tents, shacks, barns, or temporary building or structures, other than construction offices and structures for related purposes during the construction period, may be installed or maintained on the Property without the prior written approval of Grantor. All temporary structures used for construction purposes must receive approval by Grantor with regard to location and appearance, and must be removed promptly upon completion of construction.

16. Maintenance. The Property shall be maintained in a neat and clean condition. Grantee shall (a) keep all weeds and grass thereon cut in a sanitary, healthful, and attractive manner, (b) not permit the accumulation of garbage, trash, or rubbish of any kind thereon, and (c) not burn anything thereon except by use of an incinerator which is approved by Grantor.

17. Attorneys' Fees. Grantee and/or any person or business entity occupying the Property shall be liable for all expenses, including but not limited to attorneys' and professional fees, incurred by Grantor in acting against Grantee and/or any person or business entity occupying the Property to cause compliance with or to cure violations of these Protective Covenants.

18. Variances. Grantor has the exclusive right and hereby retains the exclusive right to approve variances or otherwise change, rescind, or modify these Protective Covenants where in its judgment, any such variance will not adversely affect the development of [the project].

19. Assignment. Grantor has and hereby retains the right to assign, in whole or in part, its rights hereunder, including, but not limited to, the right to approve or disapprove plans and specifications and the right to grant deviations. In the event Grantor elects to assign such rights, such assignment shall be evidenced by an instrument in writing, executed and acknowledged and filed in the appropriate Real Property Records of Harris County, Texas.

20. Severability. Invalidation of any one of the covenants, conditions or restrictions of these Protective Covenants shall not affect any other provision, which shall remain in full force and effect.

21. Binding Effect. These Protective Covenants shall be binding upon and inure to the benefit of Grantor, Grantee, and their respective successors and assigns.

22. Governing Law. These Protective Covenants shall be governed by and in accordance with the laws of the State of Texas.

23. Terminology. The captions beside the numbered Paragraphs herein are for convenience only and shall not limit, enlarge, modify, or otherwise affect these Protective Covenants in any manner whatsoever. Whenever required by the sense and circumstances of the context of these Protective Covenants or of any deed which these Protective Covenants have been made a part thereof, any gender shall include any other gender, the singular shall include the plural, and the plural shall include the singular.

24. Performance. Any obligations hereunder are performable in Harris County, Texas and any and all payments that are made hereunder are to be made in Harris County, Texas.

I. **Restrictions**. The following uses of the Property, or any portion thereof, are prohibited:

a. No single hotel or motel shall be allowed to occupy any part of the Property measuring less than two (2) acres;

b. No individual or entity other than Texas Children's Hospital, a Texas non-profit organization, or its successors and assigns and its or their affiliates, shall maintain on any portion of the Property a health care-related facility serving primarily pediatric patients without the express, written consent of Texas Children's Hospital, or its successors or assigns. In addition, no individual or entity other than Texas Children's Hospital, or its successors and assigns or its or their affiliates or their affiliated physicians, shall be permitted to maintain a pediatric primary care, specialty or subspecialty medical practice on any portion of the Property (whether individually or as part of a multispecialty practice).

c. No lounge or bar establishment that does not sell food for consumption on-site shall be permitted to operate on any portion of the Property.

d. No "adult" or sexually oriented business shall be permitted to operate on any portion of the Property.

e. Texas Children's Hospital shall not lease space at its facility within the Property to any multi-outlet retail pharmaceutical company or franchise. Nothing in this provision shall be construed to prevent Texas Children's Hospital to lease space to any party controlling, controlled by, under common control, or affiliated with Texas Children's Hospital engaged in the dispensing or formulation of pharmaceuticals within said facility.