

**BYLAWS
OF
ELDORADO LAKES RESIDENTIAL ASSOCIATION, INC.
A TEXAS NON-PROFIT CORPORATION**

Organized: September 16, 1996

TABLE OF CONTENTS

| | <u>Page</u> |
|--|-------------|
| ARTICLE I | |
| NAME AND LOCATION | 1 |
| ARTICLE II | |
| PURPOSE AND PARTIES | 1 |
| 2.01. Purpose | 1 |
| 2.02. Parties | 1 |
| ARTICLE III | |
| DEFINITIONS | 1 |
| ARTICLE IV | |
| MEMBERSHIP AND VOTING RIGHTS | 1 |
| 4.01. Membership | 1 |
| 4.02. Transfer | 2 |
| 4.03. Classes of Voting Membership and Voting Rights | 2 |
| 4.04. Multiple Owner Votes | 3 |
| 4.05. Suspension of Voting Rights | 3 |
| 4.06. Quorum, Notice and Voting Requirements | 3 |
| 4.07. Annual Meeting | 4 |
| 4.08. Special Meetings | 4 |
| 4.09. Proxies | 4 |
| 4.10. Action Without Meeting By Written Ballot | 5 |
| ARTICLE V | |
| BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE | 5 |
| 5.01. Number | 5 |
| 5.02. Term of Office | 5 |
| 5.03. Removal | 5 |
| 5.04. Vacancies | 5 |
| 5.05. Indemnification of Officers and Directors | 5 |
| 5.06. Compensation and Loans | 6 |
| 5.07. Action Without Meeting and Telephone Meetings | 6 |

ARTICLE VI

NOMINATION AND ELECTION OF DIRECTORS 6

6.01. Nominations 6

6.02. Election of Board 6

ARTICLE VII

MEETINGS OF DIRECTORS 7

7.01. Regular Meetings 7

7.02. Special Meetings 7

7.03. Quorum 7

7.04. Open Meetings 7

7.05. Executive Session 7

7.06. Action Without Meeting and Telephone Meetings 7

ARTICLE VIII

GENERAL POWERS AND DUTIES OF THE BOARD OF DIRECTORS 8

8.01. Powers and Duties 8

8.02. Contracts Terminable 10

ARTICLE IX

OFFICERS AND THEIR DUTIES 10

9.01. Enumeration of Officers 10

9.02. Multiple Offices 11

9.03. Election of Officers 11

9.04. Term 11

9.05. Special Appointments 11

9.06. Resignation and Removal 11

9.07. Vacancies 11

9.08. Duties 11

ARTICLE X

COMMITTEES 12

ARTICLE XI

CORPORATE SEAL 12

ARTICLE XII

BOOKS AND RECORDS 12

12.01. Inspection by Members 12

12.02. Rules for Inspection 12

12.03. Inspection by Directors 12

ARTICLE XIII

ASSESSMENTS 13

ARTICLE XIV

INDEMNIFICATION 13

ARTICLE XV

AMENDMENTS 14

ARTICLE XVI

MISCELLANEOUS 14

16.01. Fiscal Year 14

16.02. Interpretation 14

CERTIFICATION 15

**BYLAWS
OF
ELDORADO LAKES RESIDENTIAL ASSOCIATION, INC.
A TEXAS NON-PROFIT CORPORATION**

**ARTICLE I
NAME AND LOCATION**

The name of the association is **ELDORADO LAKES RESIDENTIAL ASSOCIATION, INC.** (the "Association"). The Association is a non-profit corporation organized under the Texas Non-Profit Corporation Act. The principal office of the Association shall be located at 17480 N. Dallas Parkway, Suite 219, Dallas, Texas 75287, Texas, but meetings of members and directors may be held at such places within the State of Texas as may be designated by the Board of Directors.

**ARTICLE II
PURPOSE AND PARTIES**

Section 2.01. Purpose. The purpose for which the Association is formed is to govern the residential area of Eldorado Lakes, situated in the City of McKinney, County of Collin, State of Texas, which property is described in that certain Declaration of Covenants, Conditions and Restrictions for Eldorado Lakes, McKinney, Texas (as same may be hereafter amended, the "Declaration") recorded or to be recorded in the Deed Records of Collin County, Texas.

Section 2.02. Parties. All present or future Owners, tenants or future tenants of any Lot, or any other person who might use in any manner the facilities of the Properties are subject to the provisions and the regulations set forth in these Bylaws. The mere acquisition, lease or rental of any Lot or the mere act of occupancy of a Lot will signify that these Bylaws are accepted, approved, ratified, and will be complied with.

**ARTICLE III
DEFINITIONS**

The definitions contained in the Declaration are incorporated herein by reference.

**ARTICLE IV
MEMBERSHIP AND VOTING RIGHTS**

Section 4.01. Membership. Each and every Owner shall automatically be a Member of the Association without the necessity of any further action on his part, subject to the terms of the Declaration, the Articles of Incorporation, these Bylaws, and the rules and regulations with respect to the Common Properties from time to time promulgated by the Association. Membership shall be appurtenant to and may not be separated from the interest of such Owner in and to any portion of the Properties. Ownership of any portion of the Properties shall be the sole qualification for being a Member; provided, however, a Member's voting rights, as herein described, or privileges in the Common Properties, or both, may be regulated or suspended as

provided in the Declaration, these Bylaws, and/or the rules and regulations promulgated thereunder. Persons or entities shall be Members by reason of ownership of land dedicated and accepted by the local public authority and devoted to public use or Common Properties and such land shall be owned subject to all of the terms and provisions of the Declaration except that: (i) ownership of land devoted to purposes described in this sentence shall not create any votes in the Members owning such land, and (ii) such non-voting Members shall not be required to pay any assessments other than special individual assessments as described and authorized in the Declaration. No person or entity shall be a Member by reason of ownership of any easement, right-of-way, or mineral interest. In addition, any person or entity that holds an interest in and to all or any part of the Properties merely as security for the performance of an obligation shall not be a Member.

Section 4.02. Transfer. Membership may not be severed from the Properties nor may it be in any way transferred, pledged, mortgaged or alienated except upon the sale or assignment of the Owner's interest in all or any part of the Properties and then only to the purchaser or assignee as the new Owner thereof. Membership shall not be severed by the encumbrance by an Owner of all or any part of the Properties. Any attempt to make a prohibited severance, transfer, pledge, mortgage or alienation shall be void and of no further force or effect, and will be so reflected upon the books and records of the Association. Any transfer of the fee title to a lot, tract or parcel of real estate out of or a part of the Properties shall automatically operate to transfer membership to the new Owner thereof. In the event an Owner should fail or refuse to transfer the membership registered in such Owner's name to the transferee, the Association shall have the right to record the transfer upon its books and records.

Section 4.03. Classes of Voting Membership and Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A Members shall be all Members with the exception of Class B Members. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. When more than one person holds such interest or interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

Class B. Class B Members shall be Declarant and any bona fide Owner who is engaged in the process of constructing a residential dwelling on any Lot for sale to consumers. Declarant shall be entitled to six (6) votes for each Lot owned by all Class B Members. Class B Members other than Declarant shall be non-voting Members of the Association. The Class B membership shall cease, and the Class B Member shall become a Class A Member, upon the earlier to occur of the following:

(a) when the total number of votes outstanding in the Class A membership is eight (8) times greater than the total number of votes outstanding in the Class B membership; or

(b) when Declarant no longer owns record title to any of the Lots; or

(c) on the tenth (10th) anniversary date of the date the Declaration was recorded in the Office of the County Clerk of Collin County, Texas.

Notwithstanding the voting rights within the Association, until the Declarant no longer owns record title to any Lot or the tenth (10th) anniversary of the date this Declaration was recorded in the Office of the County Clerk of Collin County, Texas, whichever occurs first in time, the Association shall take no action with respect to any matter whatsoever without the prior written consent of the Declarant.

Owners of exempt properties as described in Section 5.11 of the Declaration shall be Members but shall not have voting rights.

Section 4.04. Multiple Owner Votes. Where there are multiple Owners of a Lot it is not intended by any provision of the Declaration or these Bylaws that each of said Owners shall be entitled to cast the votes allocated to such Lot nor may fractional votes be cast. For example, where three persons own a Lot, they shall jointly be entitled to vote the one vote allocated to such Lot and shall not be entitled to cast a full vote each. When more than one person or entity owns the interest or interests in and to any Lot, as required for membership in the Association, each and every person or entity shall be a Class A Member, and the vote for any such Lot shall be exercised as they, among themselves, collectively determine and they shall designate one person to cast the vote or execute a written consent, as applicable. The Owners of such Lot will notify the Association, in writing, of the person so designated. Such notice will not be valid unless signed by all Owners of such Lot. The Association shall not be required to recognize the vote or written assent of any such multiple Owners except the vote or written assent of the Owner designated in writing executed by all of such multiple Owners and delivered to the Association.

If such Owners are unable to agree among themselves as to how the one vote per Lot shall be cast, they shall forfeit the right to vote on the matter in question. If more than one person or entity purports to exercise the voting rights with respect to any such Lot on any matter in question, none of such votes shall be counted in tabulating the vote on such matter and such votes shall be deemed void.

Section 4.05. Suspension of Voting Rights. The voting rights of any Member may be suspended by the Board for any period during which any assessment levied by the Association remains past due, unless the Member is in good faith contesting the validity or amount of the Assessment. The voting rights of any Member may also be suspended by the Board for a period not to exceed sixty (60) days for an infraction of the rules and regulations set forth in the Declaration.

Section 4.06. Quorum, Notice and Voting Requirements.

(a) Subject to the provisions of Paragraph (d) of this Section, any action taken at a meeting of the Members shall require the assent of the majority of all of the votes of those who are voting in person or by proxy, regardless of class, at a duly called meeting.

(b) The presence at the initial meeting of Members entitled to cast, or of proxies entitled to cast, a majority of the votes of all Owners, regardless of class, shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration or these Bylaws. If the required quorum is not present or represented at the meeting, one additional meeting may be called, subject to the notice requirements set forth below, and the required quorum at such second meeting shall be one-half (1/2) of the required quorum at the preceding meeting; provided, however, that no such second meeting shall be held more than sixty (60) days following the first meeting.

(c) Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least ten (10) but not more than fifty (50) days before such meeting to each Member, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

(d) As an alternative to the procedure set forth above, any action referred to in this Section may be taken without a meeting if a consent in writing, approving of the action to be taken, shall be signed by all Members.

(e) Except as specifically set forth in these Bylaws, notice, voting and quorum requirements for all actions to be taken by the Association shall be consistent with its Articles of Incorporation and the Declaration, as the same may be amended from time to time.

Section 4.07. Annual Meeting. The first annual meeting of the Members shall be held within one (1) year after the date of incorporation of the Association. Thereafter, annual meeting shall be set by the Board so as to occur not later than ninety (90) days after the close of the Association's prior fiscal year. The time and place of all annual meetings shall be determined by the Board. The Board shall give written notice of the place of holding of the meeting to all Members.

Section 4.08. Special Meetings. Special meetings of the Members may be called at any time by the Declarant, by the President, by the Board, or upon the written request for a special meeting from Members who are entitled to vote at least sixty percent (60%) of the outstanding votes of the Members, regardless of class.

Section 4.09. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary before the appointed time of each meeting. Proxies shall be revocable and shall automatically cease upon conveyance by the Member of his Lot, or upon receipt by the Secretary of the Association of notice of the death or judicially declared incompetence of such Member. Unless otherwise provided in the proxy, no proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided therein, except that the maximum term of any proxy shall be three (3) years from the date of execution.

Section 4.10. Action Without Meeting By Written Ballot. Any action which may be taken by the Members at a regular or special meeting, other than the election of directors, may be taken without a meeting if done in compliance with relevant provisions of the Texas Business Corporation Act, the Texas Non-Profit Corporation Act, the Texas Miscellaneous Corporation Laws Act, and these Bylaws.

ARTICLE V BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

Section 5.01. Number. The affairs of this Association shall be managed by a Board of not less than three (3) directors (herein, the "Board"), all of whom, except for the members of the first Board, must be Owners or, where such Owner is not an individual person, an officer, director, shareholder, partner or representative of an Owner. The number of directors may be changed by amendment of these Bylaws. The members of the initial Board or their successors, shall serve until the first annual meeting of the Members.

Section 5.02. Term of Office. At the first meeting, the Members, voting regardless of class, shall elect two (2) directors for a term of one (1) year each and one (1) director for a term of two (2) years. At each annual meeting thereafter, the Members, voting regardless of class, shall elect to replace those directors whose terms have expired. With the exception of the two directors elected at the first meeting to serve for a term of one year, all directors shall serve for a term of two (2) years.

Section 5.03. Removal. The entire Board may be removed from office, with or without cause, by a vote of Members holding a majority of the votes, regardless of class. Any individual director may be removed from the Board, with or without cause, prior to the expiration of his term of office by a vote of Members holding a majority of the votes, regardless of class.

Section 5.04. Vacancies. Vacancies on the Board shall be filled subject to the following provisions:

(a) Vacancies by Death or Resignation. In the event of the death or resignation of a director, a successor director shall be selected by a majority of the remaining members of the Board and shall serve for the unexpired term of such director.

(b) Vacancies by Removal. Vacancies created by the removal of a director shall be filled only by a vote of Members holding a majority of the votes. Such director shall serve for the unexpired term of the removed director.

(c) Vacancies by Increase in Directorships. Any vacancy to be filled by reason of an increase in the number of directors shall be filled by election at an annual meeting or at a special meeting of Members called for that purpose.

Section 5.05. Indemnification of Officers and Directors. Except in cases of fraud, willful malfeasance, gross negligence or bad faith of the director or officer in the performance of duties, and subject to the provisions of applicable Texas law, each director and officer shall be indemnified by the Association and the Members against all expenses and liabilities, including

attorneys' fees, reasonably incurred by or imposed upon him or her by judgment or settlement in connection with any proceeding to which he or she may be a party, or may become involved by reason of being or having been a director or officer of the Association. The Association may indemnify its officers and directors to the extent permitted by the Texas Non-Profit Corporation Act.

The Association may purchase and maintain insurance on behalf of any director or officer or may enter into other arrangements, such as creating a trust fund, establishing a form of self-insurance, or establishing a letter of credit, guaranty or surety arrangement, in connection with indemnification of directors and officers; provided, however, that in no event shall the grant of a security interest or other lien on the assets of the Association ever be given to secure an indemnity obligation under this Section 5.05.

Section 5.06. Compensation and Loans. No director shall receive compensation for any service such director may render to the Association. However, directors shall be reimbursed for actual expenses incurred in the performance of his or her duties of office. No loans may be made by the Association to any officer or director of the Association.

Section 5.07. Action Without Meeting and Telephone Meetings. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors. The Board may hold duly called meetings between directors by conference, telephone or other similar communication equipment by means of which all participants in the meeting can hear each other.

ARTICLE VI NOMINATION AND ELECTION OF DIRECTORS

Section 6.01. Nominations. Nominations for election to the Board shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board, and two or more Members. The Nominating Committee shall be appointed by the Board not less than thirty (30) days prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board as it in its discretion shall determine, but not less than the number of vacancies that are to be filled. Such nominations must be made from Owners or, where such Owner is not an individual person, an officer, director, shareholder, partner or representative of an Owner.

Section 6.02. Election of Board. The initial Board shall be set forth in the Articles of Incorporation of the Association. The first election of the Board shall be conducted at the first meeting of the Association. All positions on the Board shall be filled at that election. Thereafter, directors shall be elected by Members at the annual meeting. At such elections the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VII MEETINGS OF DIRECTORS

Section 7.01. Regular Meetings. Regular meetings of the Board shall be held quarterly at such place within the State of Texas, and at such hour as may be fixed from time to time by resolution of the Board. If the meeting date falls upon a Saturday, Sunday or legal holiday, then that meeting shall be held at the same time on the next day which is not a Saturday, Sunday or legal holiday. Notice of the agenda and place of meeting shall be delivered either personally, by mail, by telephone, telegraph or facsimile communication equipment to the Board members not less than four (4) days prior to the meeting. However, notice of a meeting need not be given to Board members who have signed a waiver of notice or a written consent to the holding of the meeting. Attendance in person at a meeting, except where such director attends for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened, shall constitute waiver of notice and such director's consent to the holding of said meeting. Participation by a director in a meeting by telephone or similar communication equipment shall constitute waiver of notice and attendance in person at such meeting.

Section 7.02. Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the President or by any two (2) directors other than the President. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be sent to all directors by mail not less than three (3) days prior to the scheduled time of the meeting, provided that notice of the meeting need not be given to Board members who have signed a waiver of notice or a written consent to the holding of the meeting. An officer of the Association shall make reasonable efforts to notify all directors of the meeting by telephone. Attendance in person at a meeting, except where such director attends for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened, shall constitute waiver of notice and such director's consent to the holding of said meeting. Participation by a director in a meeting by telephone or similar communication equipment shall constitute waiver of notice and attendance in person at such meeting.

Section 7.03. Quorum. A majority of the total number of directors constituting the Board shall constitute a quorum for the transaction of business. Every act performed or decision made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 7.04. Open Meetings. All meetings of the Board shall be open to all Members, but Members other than directors may not participate in any discussion or deliberation unless expressly so authorized by a majority of a quorum of the Board.

Section 7.05. Executive Session. The Board may, with approval of a majority of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, disciplinary matters, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

Section 7.06. Action Without Meeting and Telephone Meetings. The Board may take actions without a meeting if all of its members consent in writing to the action to be taken and may hold duly called meetings between directors by conference telephone or other similar

communications equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting shall constitute presence in person at such meeting, except where a person participates in such meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

If the Board takes an action by unanimous written consent, an explanation of the action taken shall be sent by mail to all directors within three (3) days after the written consent of all directors have been obtained.

ARTICLE VIII GENERAL POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 8.01. Powers and Duties. The affairs of the Association shall be conducted by the Board. In addition to the powers and duties enumerated in the Declaration or elsewhere herein, and without limiting the generality thereof, the Board, for the mutual benefit of the Members, shall have the powers and/or duties set forth in the Declaration and the following powers and/or duties:

(a) If, as and when the Board, in its sole discretion, deems necessary it may take such action to enforce the terms and provisions of the Declaration, the Articles of Incorporation and these Bylaws by appropriate means and carry out the obligations of the Association thereunder, including without limitation, the expenditure of funds of the Association, the employment of legal counsel and accounting services, the commencement of legal causes of action, the promulgation and enforcement of the Association rules which may include the establishment of a system of fines and/or penalties enforceable as special individual assessments as provided in the Declaration and to enjoin and/or seek legal damages from any Owner for violation of such provisions or rules;

(b) To acquire (free and clear of any encumbrances), maintain and otherwise manage all or any part of the Common Properties and all facilities, improvements and landscaping thereon, and all personal property acquired or owned by the Association;

(c) Except as may otherwise be provided in the Declaration, to dedicate, mortgage or sell all or any part of the Common Properties and all facilities, improvements and landscaping thereon, and all personal property acquired or owned by the Association;

(d) To execute all declarations of ownership for tax assessment purposes and to pay any and all real and personal property taxes and other charges or assessments assessed against the Common Properties, if any, unless the same are separately assessed to all or any of the Owners, in which event such taxes shall be paid by such Owners;

(e) To obtain, for the benefit of the Common Properties, all water, gas and electric services, refuse collections, landscape maintenance services and other services, which in the opinion of the Board shall be necessary or proper;

(f) To make such dedications and grant such easements, licenses, franchises and other rights, which in its opinion are necessary for street, right-of-way, utility, sewer, drainage and other similar facilities or video services, cable television services, security services, communication services and other similar services over the Common Properties to serve the Properties or any part thereof;

(g) To contract for and maintain such policy or policies of insurance as may be required by the Declaration or as the Board deems necessary or desirable in furthering the purposes of and protecting the interest of the Association and its Members;

(h) To borrow funds to pay costs of operation secured by assignment or pledge of its rights against delinquent Owners to the extent deemed advisable by the Board;

(i) To enter into contracts for legal and accounting services, maintain one or more bank accounts, and generally, to have the powers necessary or incidental to the operation and management of the Association and the Common Properties;

(j) If, as and when the Board, in its sole discretion, deems necessary it may, but shall not be obligated to, take action to protect or defend the Common Properties or other property of the Association from loss or damage by suit or otherwise;

(k) If, as and when the Board, in its sole discretion, deems it necessary it may, but shall not be obligated to, sue and defend in any court of law on behalf of the Association or one (1) or more of its Members;

(l) To establish and maintain a working capital and/or contingency fund in an amount to be determined by the Board;

(m) To make reasonable rules and regulations for the operation and use of the Common Properties and to amend same from time to time;

(n) To make an unaudited annual report available (within one hundred twenty (120) days after the end of each fiscal year) to each Owner and any individual or entity holding a mortgage or deed of trust on any Lot;

(o) Subject to Article VII of the Declaration, to adjust the amount, collect and use any insurance proceeds to repair damage or replace lost property owned by the Association, and if the proceeds are insufficient to repair damage or replace lost property owned by the Association, to assess the Members in proportionate amounts to cover the deficiency as set forth in the Declaration;

(p) To provide services for the benefit of Members, including but not limited to security, entertainment, recreation, education and television cable;

(q) To delegate its powers and duties to committees, officers or employees as provided in these Bylaws, employ a manager or other persons and contract with independent contractors or managing agents who have professional experience to perform all or any part of the duties and responsibilities of the Association, provided that any contract with a person or entity appointed as a manager or managing agent shall be terminable with or without cause on not more than ninety (90) days written notice by the Association and shall have a term of not more than one (1) year with successive one (1) year renewal periods upon the mutual agreement of the parties;

(r) To suspend the voting rights of any Owners who have failed to pay their assessments or who have otherwise violated the Declaration, these Bylaws or the rules and regulations of the Association;

(s) To cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by twenty-five percent (25%) or more of the outstanding votes of the Members, regardless of class.

(t) To elect the officers of the Association, as provided in these Bylaws;

(u) To fill vacancies on the Board, in accordance with Section 5.04(a) hereof; and

(v) Generally, to have the powers necessary or incidental to the operation and management of the Association and the Common Properties.

Section 8.02. Contracts Terminable. Prior to the date that the Class B Membership converts to Class A Membership, the Board shall not enter into any contracts or agreements unless such contracts or agreements are terminable by the Board upon ninety (90) days prior written notice or less.

ARTICLE IX OFFICERS AND THEIR DUTIES

Section 9.01. Enumeration of Officers. The officers of the Association shall be as follows:

- (a) A President, who shall at all times be a member of the Board;
- (b) A Vice President, who shall at all times be a member of the Board;
- (c) A Secretary, who may or may not be a member of the Board;
- (d) A Treasurer, who may or may not be a member of the Board; and

(e) Such other officers, who may or may not be members of the Board, as the Board may from time to time by resolution create.

Section 9.02. Multiple Offices. The offices of President and Secretary may not be held by the same person.

Section 9.03. Election of Officers. At its organizational meeting following the incorporation of the Association, the directors shall elect officers. Thereafter, the election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

Section 9.04. Term. The officers shall be elected annually by the Board and each shall hold office for one (1) year unless an officer shall sooner resign, be removed, or otherwise become disqualified to serve.

Section 9.05. Special Appointments. The Board may elect such other officers or appoint such other agents as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 9.06. Resignation and Removal. Any officer may be removed from office by the Board with or without cause. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 9.07. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the replaced officer.

Section 9.08. Duties. The duties of the officers are as follows:

(a) President. The President shall (i) preside at all meetings of the Board; (ii) see that orders and resolutions of the Board are carried out; (iii) sign all leases, mortgages, deeds and other written instruments; provided, however, that any duly authorized officer may sign checks and promissory notes; and (iv) shall perform such other duties as may be required by the Board.

(b) Vice President. The Vice President shall (i) act in the place and stead of the President in the event of the President's absence, inability or refusal to act; and (ii) shall exercise and discharge such other duties as may be required by the Board.

(c) Secretary. The Secretary shall (i) record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; (ii) keep the corporate seal; of the Association and affix it on all papers requiring said seal; (iii) serve notice of meetings of the Board and of the Members; (iv) keep appropriate current records showing the Members of the Association together with their addresses; and (v) perform such other duties as required by the Board.

(d) Treasurer. The Treasurer shall (i) receive and deposit in appropriate bank accounts all monies of the Association; (ii) disburse such funds as directed by resolution of the Board; (iii) maintain the financial records of the Association; and (iv) perform such other duties of a similar nature as may be required by the Board.

ARTICLE X COMMITTEES

The Board and/or the Declarant shall appoint an Architectural Control Committee, as provided in the Declaration. The provisions of Article X of the Declaration specifically set forth the rights, duties, obligations, responsibilities and liabilities of the Architectural Control Committee and its members and those provisions are incorporated herein by reference for all purposes. In addition, the Board shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE XI CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the name of the Association.

ARTICLE XII BOOKS AND RECORDS

Section 12.01. Inspection by Members. The membership register, books of account and minutes of meetings of the Members, of the Board and of committees shall be made available for inspection and copying by any Member or by the Member's appointed representative, at any reasonable time and for a purpose reasonably related to the Member's interest, at the office of the Association or at such other place as the Board may designate.

Section 12.02. Rules for Inspection. The Board shall establish reasonable rules with respect to:

- (a) Notice to be given to the custodian of the records by the Member desiring to make the inspection;
 - (b) Hours and days of the week when such an inspection may be made;
- and
- (c) Payment of the cost of reproducing copies of requested documents.

Section 12.03. Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical property owned by the Association. The rights of inspection by a director includes the right to make extra copies of documents.

ARTICLE XIII ASSESSMENTS

The provisions of Article V of the Declaration specifically set forth the rights, obligations and liabilities of the Association and its Members relative to the levy, collection and use of assessments and those provisions are incorporated herein by reference for all purposes.

ARTICLE XIV INDEMNIFICATION

Subject to the provisions of Article 1396-2.22A of the Texas Non-Profit Corporation Act, the Association may indemnify directors, officers, agents and employees as follows:

1. Extent.

(a) Statutorily Required Indemnification. The Association shall indemnify its directors and officers against reasonable expenses incurred in connection with a proceeding in which the director or officer is named as a defendant or respondent because he is or was a director or officer of the Association if he has been wholly successful, on the merits or otherwise, in the defense of the proceeding. The Association may, at the direction and in the sole discretion of the Board, pay for or reimburse the director or officer for the payment of his reasonable expenses in advance of the final disposition of the proceeding, provided that the Association receives in writing (i) an affirmation by the director or officer of his good faith belief that he has met the standards of conduct necessary for indemnification under Article 1396-2.22A of the Texas Non-Profit Corporation Act, and (ii) an undertaking by or on behalf of the director or officer to repay the amount paid or reimbursed if it is ultimately determined such standards of conduct have not been met.

(b) Permitted Indemnification. The Association, at the direction of and in the sole discretion of the Board, shall have the right, to such further extent as permitted by law, but not the obligation to indemnify any person who (i) is or was a director, officer, employee, or agent of the Association, or (ii) while a director, officer, employee, or agent of the Association, is or was serving at its request as a director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise.

2. **Insurance.** The Association may purchase and maintain insurance or another arrangement on behalf of any person who is or was a director, officer, employee, or agent of the corporation or who is or was serving at its request as a director, officer, partner, venturer, proprietor, trustee, employee, agent, or

similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise against any liability asserted against him and incurred by him in such a capacity or arising out of his status as such a person, whether or not the Association would have the power to indemnify him against that liability pursuant to the provisions of the Texas Non-Profit Corporation Act. Furthermore, the Association may, for the benefit of persons indemnified by the Association, (i) create a trust fund; (ii) establish any form of self-insurance; (iii) secure its indemnity obligation by grant of a security interest or other lien on the assets of the Association; or (iv) establish a letter of credit, guaranty, or surety arrangement.

ARTICLE XV AMENDMENTS

These Bylaws or the Articles of Incorporation may be amended at a regular or special meeting of the Members by a vote (in person or by proxy) or written consent, regardless of class, as provided in Section 4.06 of these Bylaws; provided, however, until such time as the Class B Membership shall have ceased and been converted into Class A Membership, the Association shall not amend these Bylaws or the Articles of Incorporation, without the prior written approval of the Class B Member.

ARTICLE XVI MISCELLANEOUS

Section 16.01. Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation of the Association.

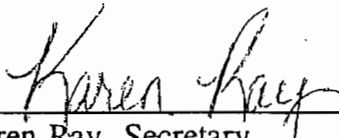
Section 16.02. Interpretation. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control; and in the case of any conflict between the Declaration and the laws of the State of Texas governing non-profit corporations, the laws of the State of Texas shall control; provided, however, to the extent reasonably practical, the Articles of Incorporation, Bylaws and Declaration shall be construed and interpreted together as consistent and non-conflicting documents, such being the intent thereof.

CERTIFICATION

I, the undersigned, am the duly elected and acting Secretary of ELDORADO LAKES RESIDENTIAL ASSOCIATION, INC., a non-profit corporation, and I do hereby certify:

That the within and foregoing Bylaws were adopted as the Bylaws of said corporation as of September 16, 1996, that the same do now constitute the Bylaws of said corporation, and that they have not been modified, amended nor rescinded.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said corporation as of September 16, 1996.



Karen Ray, Secretary

AFTER RECORDING RETURN TO:
Timothy D. Hagen
Hagen & Parsons, P.C.
North Central Plaza Three
12801 N. Central Expwy., Suite 370
Dallas, Texas 75243

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR ELDORADO LAKES, MCKINNEY, TEXAS**

THIS DECLARATION (herein so called) is made this 16th day of September, 1996, by ELDORADO/PROVINE, L.P., a Texas limited partnership (hereinafter referred to as "Declarant").

W I T N E S S E T H :

WHEREAS, Declarant is the owner of the real property referred to in Article II hereof and described on Exhibit "A" attached hereto and made a part hereof for all purposes, and desires to create thereon a residential community with residential lots, open spaces, landscaping, sprinkler systems, streets, common lighting, fencing, drives, screening walls, lakes, fountains, and other common improvements for the benefit of the community; and

WHEREAS, Declarant desires to provide for, among other matters, the preservation of the values and amenities in said community and for the maintenance of said open spaces, landscaping, sprinkler systems, streets, common lighting, fencing, drives, screening walls, fountains, and other common improvements; and, to this end, desires to subject the real property referred to in Article II, together with such additions as may hereafter be made thereon, to the covenants, conditions, restrictions, easements, charges and other matters hereinafter set forth, each and all of which is and are for the benefit of said property and every owner of any part thereof; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an owners' association to which it has delegated and assigned the powers of (i) maintaining and administering the common areas and facilities, (ii) administering and enforcing the covenants and restrictions contained herein, and (iii) collecting and disbursing the assessments and charges hereinafter created

WHEREAS, Declarant has caused or will cause a non-profit corporation to be incorporated under the laws of the State of Texas for the purpose of effecting the intents and objectives herein set forth.

NOW, THEREFORE, Declarant declares that the real property referred to in Article II, and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens (sometimes referred to as "Covenants and Restrictions") hereinafter set forth.

ARTICLE I DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration (unless the context shall otherwise prohibit) shall have the following meanings:

(a) "Architectural Control Committee" shall mean and refer to the architectural control committee described in Article X hereof.

(b) "Articles of Incorporation" shall mean and refer to the articles of incorporation of the Association as may be amended from time to time.

(c) "Association" shall mean and refer to Eldorado Lakes Residential Association, Inc., a Texas non-profit corporation, which will have the power, duty and responsibility of maintaining and administering the Common Properties, and collecting and disbursing the assessments and charges hereinafter prescribed, and will have the right to administer and enforce the Covenants and Restrictions. The Association shall, commencing on the date of recordation of this Declaration and continuing for an indefinite period of time, exist as an unincorporated association and at a point in time deemed appropriate by the Declarant, consistent with the objectives herein and the circumstances then existing, the Declarant will cause the incorporation of the Association as a non-profit corporation under the laws of the State of Texas.

(d) "Board" or "Board of Directors" shall mean and refer to the board of directors of the Association.

(e) "Bylaws" shall mean and refer to the bylaws of the Association, as may be amended from time to time.

(f) "Class A Members" shall have the meaning set forth in Section 3.02 hereof.

(g) "Class B Members" shall have the meaning set forth in Section 3.02 hereof.

(h) "Common Properties" shall mean and refer to (i) those certain streets, drives, street lights, street signs, traffic control devices, parkway areas, landscaped medians, landscaping improvements, plantings, screening walls, fencing, sprinkler systems, lakes, fountains, tennis courts, controlled access systems (including access control houses, access control service and controlled access gates) and easements, among other amenities, which are intended to be devoted to the common use and enjoyment of the Owners; and (ii) any areas of land, improvements or other property rights within the Properties which are now or hereafter designated by the Declarant or the Board of Directors as Common Properties intended for or devoted to the common use and enjoyment of the Owners, together with any and all improvements that are now or may hereafter be constructed thereon. In certain circumstances, Common Properties may not be owned by the Declarant or the Association in fee, but may, in some instances, be held as an easement, be leased or may simply be areas of land that are not owned or leased by the Declarant or the Association but which are maintained by the Association or the Declarant for the use and benefit of the Owners and the Properties. An example of areas of Common Properties which may not be owned or leased by the Association or the Declarant but would constitute a portion of the Common Properties would be landscaped areas appurtenant to and within public rights-of-way. The Declarant may hold record title to all or a portion of the Common Properties, consistent with the objectives envisioned herein and subject to the easement rights herein of the Owners to use and enjoy the Common Properties, for an indefinite period of time and at a point in time (deemed appropriate and reasonable by the Declarant) after the Association has been incorporated, record title to those portions of the Common Properties which are owned by the Declarant in fee, as an easement or otherwise will be transferred from the Declarant to the Association.

(i) "Declarant" shall mean and refer to Eldorado/Provine, L.P., a Texas limited partnership, and its successors and assigns, if such successors and/or assigns become same by express assignment by Eldorado/Provine, L.P. of its rights as Declarant hereunder or by operation of law. No person or entity purchasing one or more Lots from Eldorado/Provine, L.P. in the ordinary course of business shall be considered as "Declarant".

(j) "Lot" shall mean and refer to any plot or tract of land shown upon any recorded subdivision map(s) or plat(s) of the Properties, as amended from time to time, which is designated as a lot thereon and which is or will be improved with a residential dwelling. Some portions of the Common Properties may be platted as a "lot" on the recorded subdivision plat, however, these lots shall be excluded from the concept and definition of lot as used herein.

(k) "Member" shall mean and refer to each Owner as provided in Article III hereof.

(l) "Owner" shall mean and refer to every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject to this Declaration. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation.

(m) "Plat" shall mean and refer to the Final Plat of Eldorado Lakes, an addition to the City of McKinney, according to the map or plat thereof recorded in the Plat Records of Collin County, Texas, Volume J, Page 423

(n) "Properties" shall mean and refer to the properties subject to this Declaration as described on Exhibit "A" attached hereto, together with such additions as may hereafter be made thereto (as provided in Article II).

ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS THERETO

2.01 Existing Properties. The Properties which are, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration are located in McKinney, Collin County, State of Texas, and are more particularly described on Exhibit "A" attached hereto and incorporated herein by reference for all purposes.

2.02 Additions to Properties. Additional land(s) may become subject to this Declaration in any of the following manners:

(a) The Declarant may add or annex additional real property to the scheme of this Declaration by filing of record a Supplementary Declaration of Covenants, Conditions and Restrictions ("Supplementary Declaration") which shall extend the scheme of the Covenants and Restrictions of this Declaration to such property; provided, however, that such Supplementary Declaration may contain such complementary additions and modifications of the Covenants and Restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not materially inconsistent with this Declaration in a manner which adversely affects the concept of this Declaration.

(b) In the event any person or entity other than the Declarant desires to add or annex additional residential and/or common areas to the scheme of this Declaration, such proposed annexation must have the prior written consent and approval of the majority of the outstanding votes within each voting class of the Association.

(c) Any additions made pursuant to Paragraphs (a) and (b) of this Section 2.02, shall be subject to the prior written consent of the City of McKinney, and when made, shall automatically extend the jurisdiction, functions, duties and membership of the Association to the properties added.

(d) After obtaining the written consent of the City of McKinney, the Declarant shall have the right and option [without the joinder, approval or consent of any person(s) or entity(ies)] to cause the Association to merge or consolidate with any similar association then having jurisdiction over real property located (in whole or in part) within one-half (1/2) mile of any real property then subject to the jurisdiction of the Association. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may,

by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Covenants and Restrictions established by this Declaration within the Properties together with the covenants and restrictions established upon any other properties as one scheme.

(e) Notwithstanding the fact that the Declarant may not be a Class A or Class B Member by virtue of its sale, transfer or conveyance of all of its right, title, and interest in the Properties, the Declarant shall continue to be entitled to implement and exercise all its rights under and pursuant to this Section 2.02 and all of the subsections hereof. Even though the Declarant may not be a Class A or Class B Member prior to an annexation, merger or consolidation permitted by this Section 2.02, subsequent to such annexation, merger or consolidation, the Declarant shall be and become a Class B Member with respect to the Lots owned by it within the Properties, as such Properties have been expanded or increased by the annexation, merger or consolidation. The Declarant's rights as a Class B Member shall be governed by and set forth in this Declaration and the Articles of Incorporation and Bylaws of the Association, as same may be amended or altered by, and in accordance with, the annexation, merger or consolidation.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

3.01 **Membership.** Every Owner of a Lot shall automatically be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to this Declaration. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The Board of Directors may declare that an Owner is not a Member in good standing because of unpaid dues, fines, late charges, interest, legal fees, and/or any other Assessment of any nature. The Board of Directors may temporarily suspend the voting rights of any Member who is not in good standing until such unpaid amounts are paid in full.

3.02 **Classes of Membership.** The Association shall have two (2) classes of voting membership:

CLASS A. Class A Members shall be all Members with the exception of Class B Members. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. When more than one person holds such interest or interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote (1) be cast with respect to any such Lot.

CLASS B. Class B Members shall be Declarant and any bona fide Owner who is engaged in the process of constructing a residential dwelling on any Lot for sale to consumers. Declarant shall be entitled to six (6) votes for each Lot owned

by all Class B Members. Class B Members other than Declarant shall be non-voting Members of the Association. The Class B membership shall cease, and each Class B Member shall become a Class A Member, upon the earlier to occur of the following:

(i) when the total number of votes outstanding in the Class A membership is eight (8) times greater than the total number of votes outstanding in the Class B membership; or

(ii) when Declarant no longer owns record title to any of the Lots; or

(iii) on the tenth (10th) anniversary of the date this Declaration was recorded in the Office of the County Clerk of Collin County, Texas.

Notwithstanding the voting rights within the Association, until the Declarant no longer owns record title to any Lot or the tenth (10th) anniversary of the date this Declaration was recorded in the Office of the County Clerk of Collin County, Texas, whichever occurs first in time, the Association shall take no action with respect to any matter whatsoever without the prior written consent of the Declarant.

Owners of exempt properties as described in Section 5.11 hereof shall be Members but shall not have voting rights.

3.03 Quorum, Notice and Voting Requirements.

(a) Subject to the provisions of Paragraph (c) of this Section, any action taken at a meeting of the Members shall require the assent of the majority of all of the votes of those who are voting in person or by proxy, regardless of class, at a meeting duly called, written notice of which shall be given to all Members not less than ten (10) days nor more than fifty (50) days in advance.

(b) The quorum required for any action referred to in Paragraph (a) of this Section shall be as follows:

The presence at the initial meeting of Members entitled to cast, or of proxies entitled to cast, a majority of all of the votes of the Association, regardless of class, shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Bylaws or this Declaration or as provided by the laws of the State of Texas. If the required quorum is not present or represented at the meeting, one additional meeting may be called, subject to the notice requirement herein set forth, and the required quorum at such second meeting shall be one-half (1/2) of the required quorum at the preceding meeting; provided, however, that no such second meeting shall be held more than sixty (60) days following the first meeting.

(c) As an alternative to the procedure set forth above, any action referred to in Paragraph (a) of this Section may be taken without a meeting if a consent in writing, approving of the action to be taken, shall be signed by all Members.

(d) Except as otherwise specifically set forth in this Declaration, notice, voting and quorum requirements for all actions to be taken by the Association shall be consistent with its Articles of Incorporation and Bylaws, as same may be amended from time to time.

(e) During the period of time that the Association is unincorporated, the Declarant shall have the sole right and option to prescribe reasonable procedures for the meetings (if any) of the Members; provided, however, that prior to incorporation, without the written approval of the Declarant, no Member (other than Declarant) shall have a right to vote on any matter, or to call any meetings of the Members. Except as specifically set forth in this Declaration, notice, voting and quorum requirements for all action to be taken by the Association (as an incorporated entity) shall be consistent with its Articles of Incorporation and Bylaws, as same may be amended from time to time.

ARTICLE IV PROPERTY RIGHTS IN THE COMMON PROPERTIES

4.01 Members' Easements of Enjoyment. Subject to the provisions of Section 4.03 of this Article, every Member and every tenant of every Member, who resides on a Lot, and each individual who resides with either of them, respectively, on such Lot shall have a non-exclusive right and easement of use and enjoyment in and to the Common Properties, except that no wading, swimming, or fishing shall be allowed in the lakes or drainage ways unless expressly permitted by the Association, and such easement shall be appurtenant to and shall pass with the title of every Lot; provided, however, such easement shall not give such person the right to make alterations, additions or improvements to the Common Properties.

4.02 Title to the Common Properties. The Declarant shall dedicate and convey the fee simple title to the Common Properties to the Association at such point in time deemed reasonable and appropriate by the Declarant. Prior to the date the Common Properties are conveyed to the Association, the Declarant shall retain the right to sell portions of the Common Properties to Owners if Declarant, in its sole discretion, deems such sale to be for the best interest of the development.

4.03 Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to and limited by the following:

(a) The right of the Association to prescribe regulations governing the use, operation and maintenance of the Common Properties.

(b) Liens of mortgages placed against all or any portion of the Common Properties with respect to monies borrowed by the Declarant to develop and improve the Common Properties or by the Association to improve or maintain all or any portion of the Common Properties;

(c) The right of the Declarant and/or the Association to enter into and execute contracts with parties (including the Declarant or an affiliate of the Declarant) for the purpose of providing maintenance for all or a portion of the Common Properties or providing materials or services consistent with the purposes of the Association;

(d) The right of the Association to take such steps as are reasonably necessary to protect the Common Properties against foreclosure;

(e) The right of the Association, as may be provided in its Bylaws, to suspend the voting rights of any Member and to suspend the right of any individual to use any of the Common Properties for any period during which any assessment against a Lot owned by such individual remains unpaid, and for any period not to exceed sixty (60) days for an infraction of its rules and regulations;

(f) The right of the Declarant or the Association, subject to approval by written consent by the Member(s) having a majority of the outstanding votes of the Members, in the aggregate, regardless of class, to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or utility company for such purposes and upon such conditions as may be agreed to by such Members;

(g) The right of the Declarant or the Association, at any time, to make such reasonable amendments to the Plat, as it deems advisable, in its sole discretion. All Members are advised that a portion of the Common Properties may be located within the platted and dedicated public rights-of-way and in connection therewith the public shall have rights of use and enjoyment of Common Properties located within the public rights-of-way; and

(h) With respect to any and all portions of the Common Properties, Declarant, until Declarant no longer owns record title to any Lot or the tenth (10th) anniversary of the date this Declaration was recorded in the Office of the County Clerk of Collin County, Texas, whichever is the first to occur, shall have the right and option (without the joinder and consent of any person or entity, save and except any consent, joinder or approval required by the City of McKinney or any other governmental agency having appropriate jurisdiction over the Common Properties) to: (i) alter, improve, landscape and/or maintain the Common Properties; (ii) rechannel, realign, dam, bridge, bulwark, culvert and otherwise employ or utilize construction and/or engineering measures and activities of any kind or nature whatsoever upon or within the Common Properties; (iii) zone, rezone, or seek and obtain variances or permits of any kind or nature whatsoever upon or within the Common Properties; (iv) replat or redesign the shape or configuration of the Common Properties; and (v) seek and obtain any and all permits, licenses or exemptions from any and all governmental agencies exercising jurisdiction over the Common Properties and/or the uses or activities thereon.

ARTICLE V
COVENANTS FOR ASSESSMENTS

5.01 Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot owned by it, hereby covenants and agrees, and each purchaser of any Lot by acceptance of a deed or other conveyance document creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other conveyance document, shall be deemed to covenant and agree (and such covenant and agreement shall be deemed to constitute a portion of the consideration and purchase money for the acquisition of the Lot), to pay to the Association (or to an entity or collection agency designated by the Association): (1) annual maintenance assessments or charges (as specified in Section 5.04 hereof), such assessments to be fixed, established and collected from time to time as herein provided; (2) special assessments for capital improvements and other purposes (as specified in Section 5.05 hereof), such assessments to be fixed, established and collected from time to time as hereinafter provided; and (3) individual special assessments levied against one or more Owners to reimburse the Association for extra costs for maintenance and repairs caused by the willful or negligent acts or omissions of such Owner or Owners, his tenants (if applicable), and their respective family, agents, guests and invitees, and not caused by ordinary wear and tear (as specified in Section 5.05 hereof), all of such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual maintenance, special capital, and special individual assessments described in this Section 5.01 (hereinafter, the "Assessment" or the "Assessments," together with interest thereon, attorneys' fees, court costs and other costs of collection thereof, as herein provided, shall be a charge on the land and shall be a continuing lien upon each Lot against which any such Assessment is made. Each such Assessment, together with interest thereon, attorneys' fees, court costs, and other costs of collection thereof shall also be the continuing personal obligation of the Owner of such Lot at the time when the Assessment fell due. Further, no Owner may exempt himself from liability for such Assessments or waive or otherwise escape liability for the Assessments by non-use of the Common Properties or abandonment of his Lot. Existing obligations of an Owner to pay Assessments and other costs and charges shall not pass to bona fide first lien mortgagees which become Owners by reason of foreclosure proceedings or an action at law subsequent to the date the Assessment was due; provided, however, any such foreclosure proceeding or action at law shall not relieve such new Owner of such Lot from liability for the amount of any Assessment thereafter becoming due nor from the lien securing the payment of any subsequent Assessment.

5.02 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for (i) the purpose of promoting the recreation, comfort, health, safety and welfare of the Members and/or the residents of the Properties; (ii) managing the Common Properties; (iii) enhancing the quality of life in the Properties and the value of the Properties; (iv) improving and maintaining the Common Properties, the properties, services, improvements and facilities devoted to or directly related to the use and enjoyment of the Common Properties, including, but not limited to, the payment of taxes on the Common Properties and insurance in connection therewith and the repair, replacement and additions thereto; (v) paying the cost of labor, equipment (including the expense of leasing any equipment) and materials required for, and management and supervision of, the Common Properties; (vi) carrying out the powers and duties of the Board of Directors of the Association as set forth in this Declaration and the Bylaws; (vii) carrying out the purposes of the Association as stated in its Articles of Incorporation; and (viii) carrying out the powers and duties relating to the Architectural Control Committee, after Declarant has delegated or assigned such powers and duties to the Association.

5.03 Improvement and Maintenance of the Common Properties Prior to Conveyance to the Association. Initially, all improvement of the Common Properties shall be the responsibility of the Declarant and shall be undertaken by Declarant at its sole cost and expense with no right to reimbursement from the Association. After the initial improvements to the Common Properties are substantially completed and until the date of the conveyance of the title to the Common Properties to the Association, the Declarant, on behalf of the Association, shall have the responsibility and duty (but with right of Assessment against all Owners) of maintaining the Common Properties, including, but not limited to, the payment of taxes on and insurance in connection with the Common Properties and the cost of repairs, replacements and additions thereto, and for paying the cost of labor, equipment (including the expense of leasing any equipment) and materials required for, and management and supervision of, the Common Properties. In this regard, and until such time as the Common Properties are conveyed to the Association, all Assessments collected by the Association (less such amount required for the operation of the Association) shall be forthwith paid by the Association to Declarant, to the extent that such Assessments are required by Declarant to maintain the Common Properties as set forth in this Paragraph. The Association may rely upon a certificate executed and delivered by the Declarant with respect to the amount required by Declarant to maintain the Common Properties hereunder.

5.04 Annual Maintenance Assessments.

(a) Commencing with the year beginning January 1, 1997, and each year thereafter, each Member shall pay to the Association an annual maintenance assessment in such amount as set by the Board of Directors, at its annual meeting next preceding such January 1, 1997, and each successive January 1 thereafter.

(b) Subject to the provisions of Section 5.04(c) hereof, the rate of annual maintenance assessments may be increased by the Board. The Board may, after consideration of current maintenance, operational and other costs and the future needs of the Association, fix the annual maintenance assessments for any year at a lesser amount than that of the previous year.

(c) An increase in the rate of the annual maintenance assessments as authorized by Section 5.04(b) hereof in excess of twenty-five percent (25%) of the preceding year's annual maintenance assessments must be approved by the Members in accordance with Section 3.03 hereof.

(d) When the annual maintenance assessment is computed for Lots, all or a portion of such annual maintenance assessment shall be payable to the Association by the Member according to the status of the Lot owned by such Member as follows:

(i) As to a Lot owned by a Class A Member, the full annual maintenance assessment shall be payable.

(ii) As to a Lot owned by a Class B Member, one-quarter (1/4) of the annual maintenance assessment shall be payable.

Notwithstanding the foregoing for a period of five (5) years after the date hereof or until there is no longer any Class B membership, whichever occurs first, at Declarant's option, Declarant shall not be required to pay any Assessments with respect to any Lot owned by Declarant which has not been improved with a completed dwelling structure thereon; provided, however, that in the event Declarant elects not to pay any such Assessments during such period for so long as Declarant is the Owner of any Lot, Declarant shall subsidize the Association to the extent necessary to cover all net operating losses incurred by the Association in the operation or maintenance of the Common Properties, but Declarant shall not be required to subsidize the Association in an amount in excess of the Assessments which Declarant would otherwise have been required to pay hereunder. If Declarant subsidizes the Association and the Association thereafter accumulates a surplus or positive account balance, the Association shall reimburse the Declarant for the amount of such subsidies to the extent of the surplus or positive account balance. If Declarant subsidizes the Association in an amount in excess of the Assessments which Declarant would otherwise have been required to pay pursuant to this Declaration, all of such excess amounts shall constitute loans from Declarant to the Association which shall be payable by the Association to Declarant on demand. After the expiration of such period, Declarant shall be required to pay Assessments in accordance with the provisions hereof, but Declarant shall not be required to subsidize the Association in an amount in excess of the Assessments which Declarant would otherwise have been required to pay hereunder.

(e) Notwithstanding anything herein contained to the contrary, prior to January 1, 1998, the maximum annual maintenance assessment chargeable against any Lot for which a full assessment is payable shall not exceed \$40.00 per month.

(f) The Board of Directors may provide that annual maintenance assessments shall be paid monthly, quarter-annually, semi-annually or annually on a calendar year basis. Not later than thirty (30) days prior to the beginning of each fiscal year of the Association, the Board shall (i) estimate the total common expenses to be incurred by the Association for the forthcoming fiscal year, (ii) determine, in a manner consistent with the terms and provisions of this Declaration, the amount of the annual maintenance assessments to be paid by each Member, and (iii) establish the date of commencement of the annual maintenance assessments. Written notice of the annual maintenance assessments to be paid by each Member and the date of commencement thereof shall be sent to every Member, but only to one (1) joint Owner. Each Member shall thereafter pay to the Association his annual maintenance assessment in such manner as determined by the Board of Directors.

(g) The annual maintenance assessments shall include reasonable amounts, as determined by the Members or by the Board, collected as reserves for the future periodic maintenance, repair and/or replacement of all or a portion of the Common Properties and/or for fulfillment of future obligations of the Association. All amounts collected as reserves, whether pursuant to this Section or otherwise, shall be deposited in a separate bank account to be held in trust for the purposes for which they were collected and are to be segregated from and not

commingled with any other funds of the Association. Assessments collected as reserves shall not be considered to be advance payments of regular annual maintenance assessments.

5.05 Special Capital Assessments and Special Individual Assessments.

(a) In addition to the annual maintenance assessments authorized in Section 5.04 hereof, the Board of Directors of the Association may levy in any calendar assessment year a special capital assessment for the purpose of (i) defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of improvements upon the Properties or Common Properties, including the necessary fixtures and personal property related thereto (ii) maintaining portions of the Common Properties and improvements thereon, or (iii) carrying out other purposes of the Association; provided, however, that any such special capital assessment levied by the Association shall have the approval of the Members in accordance with Section 3.03 hereof. Any special capital assessment levied by the Association shall be paid by the Members directly to the Association on such date or dates as determined by the Board of Directors. All such amounts collected by the Association may only be used for the purposes set forth in this Section 5.05 and shall be deposited by the Board of Directors in a separate bank account to be held in trust for such purpose. These funds shall not be commingled with any other funds of the Association.

(b) The Board of Directors of the Association may levy special individual assessments against one or more Owners for (i) reimbursement to the Association of the costs for repairs to the Properties or Common Properties and improvements thereto occasioned by the willful or negligent acts of such Owner or Owners and not ordinary wear and tear; or (ii) for payment of fines, penalties or other charges imposed against an Owner or Owners relative to such Owner's failure to comply with the terms and provisions of this Declaration, the Bylaws of the Association or any rules or regulation promulgated hereunder. Any special individual assessment levied by the Association shall be paid by the Owner or Owners directly to the Association. All amounts collected by the Association as special individual assessments under this Section 5.05 shall belong to and remain with the Association.

5.06 Uniform Rate of Annual Maintenance Assessments and Special Capital Assessments. Both annual maintenance assessments and special capital assessments (excepting therefrom special individual assessments) must be fixed at a uniform rate for all Lots, and be payable as set forth herein. Unless a majority of the Owners and their respective first mortgagees have given prior written approval, the Board of Directors of the Association shall not change the pro rata obligations of any Lot (or Owner thereof) for purposes of levying annual maintenance assessments and/or special capital assessments.

5.07 Date of Commencement of Assessments; Due Dates; No Offsets. The annual maintenance assessments provided for herein shall commence on the date fixed by the Board of Directors to be the date of commencement and, except as hereinafter provided, shall be payable monthly, quarter-annually, semi-annually or annually, in advance, on the first day of each payment period thereafter, as the case may be and as the Board of Directors shall direct. The first annual maintenance assessment shall be made for the balance of the calendar year in which

it is levied. The amount of the annual maintenance assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual maintenance assessment provided for in Section 5.04 hereof as the remaining number of months in that year bears to twelve; provided, however, that if the date of commencement falls on other than the first day of a month, the annual maintenance assessment for such month shall be prorated by the number of days remaining in the month. The due date or dates, if to be paid in installments, of any special capital assessment or special individual assessment under Section 5.05 hereof shall be fixed in the respective resolution authorizing such assessment. Annual maintenance, special capital and special individual assessments may be established, collected and enforced by the Declarant at any time prior to the incorporation of the Association. All Assessments shall be payable in the amount specified by the Association and no offsets against such amount shall be permitted for any reason.

5.08 Duties of the Board of Directors with Respect to Assessments.

(a) The Board of Directors shall fix the date of commencement and the amount of the annual maintenance assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

(b) Written notice of all assessments shall be delivered or mailed to every Owner subject thereto. Such notice shall be sent to each Owner at the last address provided by each Owner, in writing, to the Association.

(c) The omission of the Board of Directors to fix the assessments within the time period set forth above for any year shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay the assessments, or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed.

5.09 Non-Payment of Assessment.

(a) Delinquency. Any Assessment, or installment thereof, which is not paid in full when due shall be delinquent on the day following the due date (herein, "delinquency date") as specified in the notice of such Assessment. The Association shall have the right to reject partial payment of an Assessment and demand full payment thereof. If any Assessment or part thereof is not paid within ten (10) days after the delinquency date, the unpaid amount of such Assessment shall bear interest from and after the delinquency date until paid at a rate equal to the lesser of (i) eighteen percent (18%) per annum or (ii) the maximum lawful rate. In addition to the foregoing, if any Assessment remains unpaid at the expiration of fifteen (15) days after the due date established by the Board, a late charge in the amount of \$15.00 shall be assessed against the non-paying Owner for each month that any portion of any Assessment remains unpaid. A service charge in the amount of \$25.00 shall be charged for each check that is

returned because of insufficient funds. The amounts of late charges and services charges may be adjusted, from time to time, by the Board consistent with any changes in the amounts of regular or special Assessments.

(b) Lien. The unpaid amount of any Assessment not paid by the delinquency date is and shall be, together with the interest thereon as provided in Section 5.09(a) hereof and the cost of collection thereof, including reasonable attorneys' fees, a continuing debt, secured by, and there is hereby impressed upon and created against each Lot, a lien and charge on the Lot of the non-paying Owner, which shall bind such Lot in the hands of the Owner, and his heirs, executors, administrators, devisees, personal representatives, successors and assigns. The lien shall be superior to all other liens and charges against the Lot, except only for tax liens and the lien of any bona fide first mortgage or first deed of trust now or hereafter placed upon such Lot. A subsequent sale or assignment of the Lot shall not relieve the Owner from liability for any Assessment made prior to the date of sale or assignment and thereafter becoming due nor from the lien of any such Assessment. The Board shall have the power to subordinate the lien securing the payment of any Assessment rendered by the Association to any other lien. Such power shall be entirely discretionary with the Board. As hereinbefore stated, the personal obligation of the Owner incurred at the time of such Assessment to pay such Assessment shall remain the personal obligation of such Owner and shall not pass to such Owner's successors in title unless expressly assumed by them in writing. Liens for unpaid Assessments shall not be affected by any sale or assignment of a Lot and shall continue in full force and effect. No Owner may exempt himself from liability for such Assessments or waive or otherwise escape liability for the Assessments by non-use of the Common Properties or abandonment of his Lot.

To evidence any lien, the Association shall prepare a written notice of lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien and a description of the Lot covered by such lien. Such notice shall be executed by one of the officers of the Association and shall be recorded in the Office of the County Clerk of Collin County, Texas.

(c) Remedies. The lien securing the payment of the Assessments shall attach to the Lot belonging to such non-paying Owner upon recordation of this Declaration with the priority set forth in this Section. Subsequent to the recording of a notice of the lien, the Association may institute an action at law against the Owner or Owners personally obligated to pay the Assessment and/or for the foreclosure of the aforesaid lien. In any foreclosure proceeding the Owner shall be required to pay the costs, expenses and reasonable attorneys' fees incurred by the Association. In the event an action at law is instituted against the Owner or Owners personally obligated to pay the Assessment there shall be added to the amount of any such Assessment:

- (i) the interest provided in this Section,
- (ii) the costs of preparing and filing the complaint in such action,

(iii) the reasonable attorneys' fees incurred in connection with such action, and

(iv) any other costs of collection;

and in the event a judgment is obtained, such judgment shall include interest on the Assessment as provided in this Section and a reasonable attorneys' fee to be fixed by the court, together with the costs of the action.

Each Owner, by acceptance of a deed to a Lot, hereby expressly vests in the Association or its agents or trustees the right and power to bring all actions against such Owner personally for the collection of such charges as a debt, and to enforce the aforesaid liens by all methods available for the enforcement of such liens, including non-judicial foreclosure pursuant to Section 51.002 of the Texas Property Code, and such Owner hereby expressly grants to the Association the private power of sale in connection with said liens. The Association may also suspend the Association membership and voting rights of any Owner who is in default in payment of any Assessment in accordance with this Declaration and/or the Bylaws.

(d) Notice to Mortgagees. The Association may, and upon the written request of any mortgagee holding a prior lien on any part of the Properties, shall report to said mortgagee any Assessments remaining unpaid for longer than thirty (30) days after the delinquency date of such Assessment.

5.10 Subordination of the Lien to Mortgages. The lien securing the payment of the Assessments shall be subordinate and inferior to the lien of any bona fide first lien mortgage or deed of trust now or hereafter recorded against any Lot; provided, however, that such subordination shall apply only to the Assessments which have become due and payable prior to a sale, whether public or private, of such property pursuant to the terms and conditions of any such mortgage or deed of trust. Such sale shall not relieve the new Owner of such Lot from liability for the amount of any Assessment thereafter becoming due nor from the lien securing the payment of any subsequent assessment.

5.11 Exempt Property.

The following property subject to this Declaration shall be exempted from the assessments, charges and liens created in Section 5.04 and Section 5.05(a) hereof:

(a) All properties dedicated and accepted by the local public authority and devoted to public use.

(b) All Common Properties.

5.12 Estoppel Information from Board with Respect to Assessments. The Board shall upon demand at any time furnish to any Owner liable for an Assessment, a certificate signed by an officer or agent of the Association, setting forth whether said Assessment has been

paid. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid. A reasonable charge may be made by the Board of Directors of the Association for the issuance of such certificates.

**ARTICLE VI
GENERAL POWERS AND DUTIES
OF BOARD OF DIRECTORS OF THE ASSOCIATION**

6.01 Powers and Duties. The affairs of the Association shall be conducted by its Board of Directors. Prior to the incorporation of the Association, the Declarant shall select and appoint the Board of Directors, each of whom shall be a Class A or Class B Member, or an officer, employee, representative or agent of a Class A or Class B Member. From and after the effective date of the Association's incorporation, the Board of Directors shall be selected in accordance with the Articles of Incorporation and Bylaws of the Association. The Board, for the benefit of the Properties, the Common Properties and the Owners, shall provide and pay for, out of the funds(s) collected by the Association pursuant to Article V above, the following:

(a) Care and preservation of the Common Properties and the furnishing and upkeep of any desired personal property for use in the Common Properties. Expenditures for the repair or installation of capital improvements, not included in the annual maintenance budget, may be paid from the reserve fund as specifically provided in Section 6.05 herein.

(b) Care and maintenance of the roads, streets, alleys, security facilities, fencing, irrigation, landscaping, screening walls and entry features which may be constructed on and constitute a part of the Common Properties. Maintenance includes all repair, rebuilding or cleaning deemed necessary by the Board of Directors.

(c) Should the Board so elect, maintenance of exterior grounds, drives, parkways, private streets and access areas, including care of trees, shrubs and grass, the exact scope of which shall be further specified by the Board from time to time. In particular, the Board shall be empowered to contract with persons or entities who shall be responsible for the maintenance of landscaping, trees, shrubs, grass and like improvements which are located on the Common Properties and/or the Lots, except for landscaping and other like improvements which are located within rear yards or side yards enclosed by solid fence, which shall be maintained by the individual Lot Owner. Maintenance services contracted for by the Board in accordance with this paragraph shall be paid for out of Association funds.

(d) The services of a person or firm to manage and/or provide consultation to the Association or any separate portion thereof, to the extent deemed advisable by the Board, and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board or by the manager.

(e) Legal and accounting services.

(f) A policy or policies of insurance ensuring the Association, its officers and directors against any liability to the public or to the Owners (and/or their invitees or tenants) incident to the operation of the Association, including, without limitation, officers' and directors' liability insurance.

(g) Workers' compensation insurance to the extent necessary to comply with any applicable laws.

(h) Such fidelity bonds as may be required by the Bylaws or as the Board may determine to be advisable.

(i) Any other materials, supplies, insurance or property owned by the Association, furniture, labor, services, maintenance, repairs, alterations, taxes or assessments which the Board is required to obtain or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be necessary or proper for the operation or protection of the Association or for the enforcement of this Declaration.

(j) To execute all declarations of ownership for tax assessment purposes and to pay all taxes with regard to the Common Properties.

(k) To enter into agreements or contracts with insurance companies, taxing authorities and the holders of mortgage liens on one or more Lots with respect to: (i) taxes on the Common Properties and (ii) insurance coverage of the Common Properties, as they relate to the assessment, collection and disbursement process envisioned in this Declaration.

(l) To borrow funds to pay costs of operation, secured by assignment or pledge of rights against delinquent Owners, if the Board sees fit.

(m) To enter into contracts, maintain one or more bank accounts, and generally, to have all the powers necessary or incidental to the operation and management of the Association and the Common Properties, expressly including the power to enter into management and maintenance contracts.

(n) If, as, and when the Board, in its sole discretion, deems necessary it may take action to protect or defend the Common Properties from loss or damage by suit or otherwise, to sue or defend in any court of law on behalf of the Association and to provide adequate reserves for repairs and replacements.

(o) To make reasonable rules and regulations for the operation and use of the Common Properties and to amend them from time to time, provided that any rule or regulation may be amended or repealed by an instrument in writing signed by a majority of the Members, or, with respect to a rule applicable to less than all of the Properties, by a majority of the Members in the portions affected.

(p) Subsequent to incorporation, to make available to each Owner, within one hundred twenty (120) days after the end of each year, an unaudited annual report.

(q) Pursuant to Article VII herein, to adjust the amount, collect, and use any insurance proceeds to repair damage or replace lost property; and if proceeds are insufficient to repair damage or replace lost property, to assess the Members in proportionate amounts to cover the deficiency.

(r) If, as and when the Board, in its sole discretion, deems necessary, it may take action to enforce the provisions of this Declaration, the provisions of any Supplementary Declaration and any rules made hereunder and to enjoin and/or seek damages from any Owner for violation of such provisions or rules.

6.02 Board Powers. From and after the date on which the title to the Common Properties has been conveyed to the Association, the Board shall have the right to contract for all goods, services and insurance, and the exclusive right and obligation to perform the functions of the Board, except as otherwise provided herein.

6.03 Maintenance Contracts. The Board, on behalf of the Association, shall have full power and authority to contract with any Owner or any third party for the performance by the Association of services upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interest of the Association.

6.04 Liability Limitations. No Member, officer of the Association or member of the Board of Directors shall be personally liable for debts contracted for, or otherwise incurred by the Association, or for a tort of another Member, whether such other Member was acting on behalf of the Association or otherwise. Neither Declarant, the Association, its directors, officers, agents, or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, improvements or portion thereof or for failure to repair or maintain the same.

The Common Properties may be subject to storm water overflow, natural bank erosion and other natural or man-made events or occurrences to extents which cannot be defined or controlled. Under no circumstances shall Declarant ever be held liable for any damages or injuries of any kind or character or nature whatsoever resulting from: (i) the occurrence of any natural phenomena; (ii) the failure or defect of any structure or structures situated on or within the Common Properties; and (iii) any act, conduct, omission or behavior of any individual, group of individuals, entity or enterprise occurring on, within or related to the Common Properties.

6.05 Reserve Funds. The Board may establish reserve funds, for such purposes as may be determined by the Board, which may be maintained and accounted for separately from other funds maintained for annual operating expenses and may establish separate, irrevocable trust accounts in order to better demonstrate that the amounts deposited therein are capital contributions and are not net income to the Association. Expenditures from any such fund will be made at the direction of the Board. The reserve fund provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of the subdivision, and maintaining the subdivision and improvements therein, all as may be more specifically authorized from time to time by the Board of Directors. Capital expenditures from this fund may include by way of example, but not be limited to, street and street light repair, lake and drainage channel improvements or other repair of major damage to the Common Properties not covered by insurance.

**ARTICLE VII
INSURANCE; REPAIR AND RESTORATION**

7.01 Right to Purchase Insurance. The Association shall have the right and option to purchase, carry and maintain in force insurance covering any or all portions of the Common Properties, the improvements thereon and appurtenant thereto, for the interest of the Association and of all Members thereof, in such amounts and with such endorsements and coverage as shall be considered good sound insurance coverage for properties similar in construction, location and use to the subject property. Such insurance may include, but need not be limited to:

(a) Insurance against loss or damage by fire and hazards covered by a standard extended coverage endorsement in an amount which shall be equal to the maximum insurable replacement value, excluding foundation and excavation costs as determined annually by the insurance carrier.

(b) Public liability and property damage insurance on a broad form basis.

(c) Fidelity bond for all directors, officers and employees of the Association having control over the receipt or the disbursement of funds in such penal sums as shall be determined by the Association in accordance with its Bylaws.

(d) Officers and directors liability insurance.

7.02 Insurance Proceeds. Proceeds of insurance shall be disbursed by the insurance carrier to the Association or contractors designated by the Association as the Board of Directors may direct. The Association shall use the net insurance proceeds to repair and replace any damage or destruction of property, real or personal, covered by such insurance. Any balance from the proceeds of insurance paid to the Association, as required in this Article, remaining after satisfactory completion of repair and replacement, shall be retained by the Association as part of a general reserve fund for repair and replacement of the Common Properties.

7.03 Insufficient Proceeds. If the insurance proceeds are insufficient to repair or replace any loss or damage, the Association may levy a special assessment as provided for in Article V of this Declaration to cover the deficiency. If the insurance proceeds are insufficient to repair or replace any loss or damage for which an Owner is bound hereunder, such Owner shall, as such Owner's undivided responsibility, pay any excess costs of repair or replacement.

7.04 Mortgagee Protection. There may be attached to all policies of insurance against loss or damage by fire and other hazards, a mortgagee's or lender's loss payable clause; provided, however, that amounts payable under such clause to the mortgagee may be paid to the Association to hold for the payment of costs of repair or replacement, subject to the provisions of Section 7.02 hereof. The Association shall be responsible to hold said monies or to collect additional monies if the proceeds are insufficient to pay for the cost of all repairs or replacements and shall ensure that all mechanics', materialmen's and similar liens which may result from said repairs or replacements are satisfied.

7.05 Destruction of Improvements on Individual Lots. In the event of destruction (total or partial) to the improvements on any individual Lot due to fire or any other cause each

Owner covenants and agrees to clear and remove any and all debris resulting from such damage within two (2) months after the date that the damage occurs and to complete all necessary repairs or reconstruction of the damaged improvements within one (1) year after the date that the damage occurs.

ARTICLE VIII USE OF COMMON PROPERTIES

The Common Properties may be occupied and used as follows:

8.01 Restricted Actions by Owners. No Owner shall permit anything to be done on or in the Common Properties which would violate any applicable public law or zoning ordinance or which will result in the cancellation of or increase of any insurance carried by the Association. No waste shall be committed in or on the Common Properties.

8.02 Damage to the Common Properties. Each Owner shall be liable to the Association for any damage to the Common Properties caused by the negligence or willful misconduct of the Owner or such Owner's family, guests, pets, tenants or invitees.

8.03 Rules of the Board. All Owners and occupants shall abide by any rules and regulations adopted by the Board. The Board shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and an Owner determined by judicial action to have violated said rules and regulations shall be liable to the Association for all damages and costs, including reasonable attorney's fees, incurred by the Association in connection therewith.

ARTICLE IX USE OF PROPERTIES AND LOTS; PROTECTIVE COVENANTS

The Properties and each Lot situated thereon shall be constructed, developed, reconstructed, repaired, occupied and used as follows:

9.01 Residential Purposes. Each Lot (including land and improvements) shall be used and occupied for single family residential purposes only. No Owner or other occupant shall use or occupy such Owner's Lot, or permit the same or any part thereof to be used or occupied, for any purpose other than as a private single family detached residence for the Owner or such Owner's tenant and their families and domestic servants employed on the premises. As used herein the term "single family residential purposes" shall be deemed to prohibit specifically, but without limitation, the use of any Lot for a duplex apartment, garage apartment, or other apartment use.

9.02 Minimum Lot Area. No Lot shall be resubdivided; provided, however, that Declarant shall have and reserves the right, at any time, or from time to time, upon the joinder and consent of the appropriate county and/or municipal authorities, and with the joinder and consent of the directly affected Owners, to file a replat of the Plat to effect a resubdivision or reconfiguration of any Lots then owned by Declarant, so long as, such replat results in each resubdivided Lot containing not less than the minimum lot size prescribed by the zoning ordinances of the City of McKinney, Texas. Owners shall not unreasonably withhold or delay

their joinder in or consent to the replat or amendments to the Plat. The privilege to replat Lots owned by the Declarant reserved in this Section 9.03 shall be exercisable only by Declarant.

9.03 Minimum Floor Space. All floor areas referenced below are for air-conditioned floor areas, exclusive of porches, garages, or breezeways attached to the main dwelling. Each dwelling constructed on any Lot in the subdivision shall contain a minimum of two thousand five hundred (2,500) square feet.

9.04 Combining Lots. Any person owning two or more adjoining Lots may consolidate such Lots into a single building location for the purpose of constructing one (1) residential structure thereon (the plans and specifications therefor being approved as set forth in this Declaration) and such other improvements as are permitted herein; provided, however, any such consolidation must comply with the rules, ordinances and regulations of any governmental authority having jurisdiction over the Properties. In the event of any such consolidation, the consolidated Lots shall be deemed to be a single Lot for purposes of applying the provisions of this Declaration; provided, however, such Owner shall continue to pay assessments on such Lots as if such Lots had not been consolidated and shall be entitled to one vote for each Lot (determined prior to such consolidation) owned by such Owner. Any such consolidation shall give consideration to easements as shown and provided for on the Plat and any required abandonment or relocation of any such easements shall require the prior written approval of Declarant as well as the prior written approval of any utility company having the right to the use of such easements. Combining of portions of Lots into a single building site is prohibited.

9.05 Setback Requirements and Building Location. All front, side and rear setbacks must be approved by the Architectural Control Committee, and must meet the requirements of the City of McKinney and the requirements of the Plat. The location of the main residence on each Lot and the facing of the main elevation with respect to the street shall be subject to the written approval of the Architectural Control Committee. No building or structure of any type shall be erected on any Lot nearer to the property lines indicated by the minimum building setback line on the Plat.

9.06 Height. No building or structure on any Lot shall contain more than two (2) stories or exceed, in height, the maximum height allowed by the City of McKinney, such height to be measured and determined in accordance with the method approved by the City of McKinney.

9.07 Driveways. Each Lot must be accessible to the adjoining street by a driveway or alley suitable for such purposes and approved in writing as to design, materials and location by the Architectural Control Committee before the residential structure located on such Lot may be occupied or used.

9.08 Access. No driveways or roadways may be constructed on any Lot to provide access to any adjoining Lot except as expressly provided on the Plat, or otherwise approved in writing by the Architectural Control Committee.

9.09 Drainage. Neither the Declarant nor its successors or assigns shall be liable for any loss of, use of, or damage done to, any shrubbery, trees, flowers, improvements, fences, walks, sidewalks, driveways, or buildings of any type or the contents thereof on any Lot caused by any water levels, rising waters, or drainage waters. After the residence to be constructed on

a Lot has been substantially completed, the Lot will be graded so that surface water will generally flow to streets, drainage easements, or Common Properties, and in conformity with the general drainage plans for the subdivision.

9.10 Utilities. Each residence situated on a Lot shall be connected to the water and sewer lines as soon as practicable after same are available at the Lot line. No privy, cesspool, or septic tank shall be placed or maintained upon or in any Lot. However, portable toilets will be required during building construction. The installation and use of any propane, butane, LP Gas or other gas tank, bottle or cylinder of any type (except portable gas grills), shall require the prior written approval of the Architectural Control Committee, and, if so approved, the Architectural Control Committee may require that such tank, bottle or cylinder be installed underground. Any control boxes, valves, connections, utility risers or refilling or refueling devices shall be completely landscaped with shrubbery so as to obscure their visibility from the streets within or adjoining the Properties or from any other Lot.

9.11 Construction Requirements.

(a) The exterior surface of all residential dwellings shall be constructed of glass, wood, brick, stone, stucco, or other materials approved by the Architectural Control Committee. It is specifically required that the exterior wall area of each residence located within the Properties shall not have less than eighty percent (80%) brick, stone or stucco construction. The exterior portion of any chimney shall be one hundred percent (100%) brick, stone or stucco construction. The surface area of windows surrounded completely by brick may be included within the computation of the exterior brick, stone or stucco wall area of a residence. No previously used materials, other than fired antique brick, shall be permitted on the exterior of the residential structures located within the Properties, without the prior written approval of the Architectural Control Committee.

The use of 240 pound composition shingles of weathered wood appearance shall be permitted, however, no other roofing material shall be used without first obtaining the Architectural Control Committee's written approval of same. The Architectural Control Committee will only approve roofing materials which are of a quality consistent with the external design, color and appearance of other improvements within the subdivision. The roof pitch of any structure shall be 8" x 12" minimum. Any deviation of roof pitch must be approved in writing by the Architectural Control Committee. Exterior paint and stain colors shall be subject to the written approval of the Architectural Control Committee.

(b) Construction of a new single family dwelling on any Lot shall include the placement of a four (4) foot wide concrete sidewalk across the entire frontage of such Lot. Such sidewalks shall be constructed in conformity with the then existing ordinances, standards and codes promulgated by the City of McKinney.

(c) Each residential structure shall have installed on the outside wall thereof a service riser conduit; provided, however, no service riser conduit shall be installed on the front of any residential structure unless approved in writing by the Architectural Control Committee. Each Owner shall use its best efforts so that no such conduit shall be visible from any street, Common Properties or adjoining Lots.

(d) No above ground-level swimming pools shall be installed on any Lot.

(e) All exterior construction of the primary residential structure, garage, porches, and any other appurtenances or appendages of every kind and character on any Lot and all interior construction (including, but not limited to, all electrical outlets in place and functional, all plumbing fixtures installed and operational, all cabinet work, all interior walls, ceilings, and doors shall be completed and covered by paint, wallpaper, paneling, or the like, and all floors covered by wood, carpet, tile or other similar floor covering) shall be completed not later than one (1) year following the commencement of construction. For the purposes hereof, the term "commencement of construction" shall be deemed to mean the date on which the foundation forms are set.

(f) No projections of any type shall be placed or permitted to remain above the roof of any residential building with the exception of one or more chimneys and one or more vent stacks without the written permission of the Architectural Control Committee.

9.12 **Garages and Servants Quarters.** Each residential dwelling erected on any Lot shall provide garage space for a minimum of two (2) conventional automobiles. All garage doors shall be equipped, no later than the issuance of a certificate of occupancy for such residence, with an automatic and remote controlled door opener, and shall be closed at all times when not in use. Detached garages, servants quarters, and storage rooms must be approved in writing by the Architectural Control Committee. No carport shall be built, placed, constructed or reconstructed on any Lot. As used herein, the term "carport" shall not be deemed to include a porte cochere. No garage shall ever be changed, altered, reconstructed or otherwise converted for any purpose inconsistent with the garaging of automobiles, unless a new garage is constructed to meet the requirements of this Section. Other than the garages constructed on Lots 3, 8, 12 and 15 of Block A; Lots 7 and 9 of Block B; Lots 3, 5, 7 and 12 of Block C; Lots 9 and 14 of Block D; Lots 6, 11, 14, 17, 20 and 25 of Block E (collectively, the "Garage Lots"), no garage shall face a residential street or any of the Common Properties. Any garage constructed on a Garage Lot shall be set back five feet (5') from the front of the residential structure constructed on such Lot and shall utilize single car garage doors, no wider than eight feet (8'). Porte cocheres must be approved in writing by the Architectural Control Committee.

9.13 **Landscaping and Sprinkler System.** Any and all plans for the landscaping of front yards and of side yards not enclosed by solid fencing, including alterations, changes or additions thereto, shall be subject to the written approval of the Architectural Control Committee. Each Lot on which a residential dwelling is constructed shall have and contain an underground water sprinkler system for the purpose of providing sufficient water to all front yards and all side yards not enclosed by solid fencing. Weather permitting, each Lot shall be

fully landscaped within one hundred twenty (120) days after the date the residence thereon is ninety-five percent (95%) complete. The front and side yards (visible from the streets and/or Common Properties) of each Lot shall be grass sod and each Lot shall contain a three inch ((3")) caliper tree or larger in the front yard. Each Lot Owner shall be responsible for maintaining his own lawn and landscaping in a healthy and attractive condition.

9.14 Fences. No fence, wall or hedge shall be erected, placed or altered on any Lot without the prior written approval of the Architectural Control Committee and the design of and materials used in the construction of fences shall be subject to the prior written approval of the Architectural Control Committee. The Architectural Control Committee will strive to protect and preserve lake and other natural views of the Owners. No fence, wall or hedge shall be erected, placed or altered on any Lot nearer to any street than the minimum building setback line indicated on the Plat, unless otherwise permitted by the Architectural Control Committee and in accordance with the requirements of the City of McKinney. All wooden fences shall: (i) be of spruce or better wood materials (except structural components); (ii) be six (6) feet in height; (iii) have slats measuring between four (4) and six (6) inches wide; (iv) have vertically installed slats; and (v) be neither painted nor stained; provided, however, that a clear or neutral stain, that does not conflict with the cosmetic surroundings, may be used. All wooden fences visible from the street or the Common Properties must be board on board, with the finished side facing the street or Common Properties and any non-decorative columns being situated on the inside of the fence. No fence, wall or hedge shall exceed six (6) feet in height unless otherwise specifically approved by the Architectural Control Committee. No chain link fence or other wire type fence shall be erected on any Lot except for temporary chain link fencing installed along the perimeter of the subdivision for interim security. Chain link fencing on tennis courts will only be allowed with the express written approval of the Architectural Control Committee. All service and sanitation facilities, clothes lines, wood piles, tool sheds and air conditioning equipment must be enclosed within fences, walls and/or landscaping so as not to be visible from the adjoining lots and residential streets. Upon submission of a written request, the Architectural Control Committee may, from time to time, at its sole discretion, permit Owners to construct fences or walls which are in variance with the provisions of this paragraph where, in the opinion of the Architectural Control Committee, the fence or wall is an integral part of the home. Fencing shall be constructed in accordance with the following restrictions based on the location of such fencing.

(a) **Front Yard Fencing.** Fencing will be allowed to extend from the perimeter of a dwelling to the side or rear property lines; provided, however, in connection with fencing from the perimeter of a dwelling to the side property lines, such fence shall be set back at least ten feet (10') from the primary perimeter dwelling wall facing the street. All fencing shall be board on board construction, shall be of spruce material or better, shall have slats four (4) to six (6) inches wide which are installed vertically only (not horizontally or diagonally), shall be no higher than six (6) feet, and shall not be painted or stained (other than a clear or neutral stain) on any surface facing a street, Common Properties, or adjoining Lot.

(b) **Side or Rear Yard Fencing - Visible from Streets (i.e. Corner Lots).** Fencing shall be constructed as noted in Subparagraph (a) above, however, stone columns, matching the stone retaining walls installed by Declarant between other Lots in the Subdivision, must be built with maximum spacings of twenty (20) feet from column center to column center.

The Owners of Lots 1 through 16 of Block A and Lots 13 through 27 of Block E within Eldorado Lakes shall construct a wooden fence, approved by the Architectural Control Committee, along the rear property lines of such Lots within sixty (60) days after the date the residence thereon is ninety-five percent (95%) complete.

Wrought iron fencing matching the style and color of the wrought iron fencing installed by Declarant at the entryway to the Subdivision shall be installed along the rear property line of all Lots 5 through 9 in Block B and Lots 7 through 12 in Block C of Eldorado Lakes, unless otherwise approved by the Architectural Control Committee. Any such wrought iron fencing shall be between four feet (4') and six feet (6') in height and need not contain columns.

Wrought iron fencing matching the style and color of the wrought iron fencing installed by Declarant at the entryway to the Subdivision shall be installed along the north property lines of Lot 16 of Block A and Lot 27 of Block E of Eldorado Lakes if fencing is desired by Lot Owner.

9.15 Trash Receptacles and Collection. Each Lot Owner shall make or cause to be made appropriate arrangements with the City of McKinney, Texas, for collection and removal of garbage and trash on a regular basis. If the Owner fails to make such provisions, the Association may do so and assess the costs thereof to the Owner. Each and every Owner shall observe and comply with any and all regulations or requirements promulgated by the City of McKinney, Texas, and/or the Association, in connection with the storage and removal of trash and garbage. All Lots shall at all times be kept in a healthful, sanitary and attractive condition. No Lot shall be used or maintained as a dumping ground for garbage, trash, junk or other waste matter. All trash, garbage, or waste matter shall be kept in adequate containers which shall be constructed of metal, plastic or masonry materials, with tightly-fitting lids, or other containers approved by the City of McKinney, Texas, and which shall be maintained in a clean and sanitary condition. An Owner may place trash on the street curb abutting his Lot only on those days designated by the City of McKinney, Texas, as trash collection days; provided, however, such trash must be kept neatly contained in a sanitary, tightly-sealed metal, plastic or other container. No Lot shall be used for open storage of any materials whatsoever, except that new building materials used in the construction of improvements erected on any Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without unreasonable delay, until completion of the improvements, after which the materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. No garbage, trash, debris, or other waste matter of any kind shall be burned on any Lot.

9.16 Exterior Lighting. No exterior light, including landscape lighting, shall be installed or maintained on any Lot without the prior written approval of the Architectural Control Committee. Further, and notwithstanding such prior written approval, upon being given notice by the Architectural Control Committee that any exterior light is objectionable, the Owner of the Lot on which same is located will immediately remove said light or shield the same in such a way that it is no longer objectionable.

9.17 Window Coolers. No window or wall type air-conditioners or water coolers shall be permitted to be used, erected, placed or maintained on or in any residential building on any part of the Properties.

9.18 Antennas Restrictions, Satellite Dishes and Playground Structures. No radio or television aerial wires or antennas shall be maintained on the outside of any building nor shall any free standing antennas of any style be permitted. All radio or television aerial wires or antennas must be built within the main structure and must not be visible from outside of such structure. The location of all satellite dishes and playground structures shall be subject to the prior written approval of the Architectural Control Committee. No satellite dish or playground structure shall be visible from any street, Common Properties or adjoining Lots. Satellite dishes larger than eighteen inches (18") in width shall not be allowed.

9.19 Temporary Structures and Vehicles. No temporary structure of any kind shall be erected or placed upon any Lot. No trailer, mobile, modular or prefabricated home, tent, shack, barn or any other structure or building, other than the residence to be built thereon, shall be placed on any Lot, either temporarily or permanently, and no residence, house, garage or other structure appurtenant thereto shall be moved upon any Lot from another location, except for a sale, pre-sale or construction trailer; provided, however, that Declarant reserves the exclusive right to erect, place and maintain, and to permit builders to erect, place and maintain such facilities in and upon the Property as in its sole discretion may be necessary or convenient during the period of and in connection with the sale of Lots, construction and selling of residences and constructing other improvements on the Properties. Such facilities may include, but not necessarily be limited to, a temporary office building, storage area, signs, portable toilet facilities and sales office. Declarant and builders shall also have the temporary right to use a residence situated on a Lot as a temporary office or model home during the period of and in connection with the construction and sales operations on the Properties, but in no event shall a builder have such right for a period in excess of one (1) year after the date of substantial completion of his last residence on the Properties. Any truck, bus, boat, boat trailer, trailer, mobile home, campmobile, camper or any vehicle other than conventional automobile shall, if brought within the Properties, be stored, placed or parked within the garage of the appropriate Owner or concealed from view from adjoining Lots, Common Properties, or any street, unless approved in writing by the Architectural Control Committee.

9.20 Parking. On-street parking is restricted to approved deliveries, pick-up or short-time guests and invitees and shall be subject to such reasonable rules and regulations as shall be adopted by the Board of Directors. Parking in driveways is permitted; provided, however, no inoperable vehicles, no stored vehicles, or vehicles not utilized on a daily basis shall be permitted to be parked in driveways.

9.21 Signs. No signs, flags or flag poles shall be displayed to the public view on any Lot without the prior written approval of the Architectural Control Committee, with the following exceptions: (i) Declarant may erect and maintain a sign or signs for the construction, development, operation, promotion and sale of the Lots; (ii) the patriotic display of flags not exceeding 4' x 6' in size shall be permitted on customary holidays; and (iii) signs of customary dimensions (3' x 4' maximum) advertising said property or portions thereof for sale. Notwithstanding anything herein contained to the contrary, any and all signs, if allowed, shall comply with all sign standards of the City of McKinney, Texas, as such standards may be applicable to the Properties.

9.22 Removal of Dirt. The digging of dirt or the removal of any dirt from any Lot is prohibited, except as necessary in conjunction with landscaping or construction of improvements thereon. Minimum finished floor elevations, if any, established on the Plat shall be maintained.

9.23 Drilling and Mining Operations. No oil drilling, water drilling or development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, water wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil, natural gas or water shall be erected, maintained or permitted upon any Lot.

9.24 Offensive Activities. No noxious or offensive activity shall be conducted on any Lot nor shall anything be done thereon which is or may become an annoyance or nuisance to the other Owners. No animals, livestock or poultry of any kind shall be raised, bred or kept on any residential Lot, except that dogs, cats or other household pets [not to exceed three (3) adult animals] may be kept, provided that they are not kept, bred or maintained for commercial purposes.

9.25 Swimming and Fishing. No wading, swimming, boating or fishing shall be allowed in any lake, waterway or drainage way situated within the Common Properties, unless expressly permitted in writing by the Association. Notwithstanding the above, fishing from the shore shall be allowed in the lake located within Common Area Number Six, as designated on the Plat.

9.26 Duty of Maintenance.

(a) Owners and occupants (including lessees) of any Lot shall, jointly and severally, have the duty and responsibility, at their sole cost and expense, to keep the Lot so owned or occupied, including buildings, improvements, grounds or drainage easements or other rights-of-way incident thereto, and vacant land, in a well-maintained, safe, clean and attractive condition at all times. Such maintenance includes, but is not limited to, the following:

- (i) Prompt removal of all litter, trash, refuse and waste;
- (ii) Lawn mowing on a regular basis;
- (iii) Tree and shrub pruning;
- (iv) Watering landscaped areas;
- (v) Keeping exterior lighting and maintenance facilities in working order;
- (vi) Keeping lawn and garden areas alive, free of weeds, and attractive;
- (vii) Keeping parking areas, driveways, curbs and roads in good repair;
- (viii) Complying with all government health and police requirements;
- (ix) Repair of exterior damages to improvements;

(x) Cleaning of landscaped areas lying between street curbs and Lot lines, unless such streets or landscaped areas are expressly designated to be Common Properties maintained by applicable governmental authorities or the Association; and

(xi) Repainting of improvements.

(b) If, in the opinion of the Association, any such Owner or occupant has failed in any of the foregoing duties or responsibilities, then the Association may give such person written notice of such failure and such person must within ten (10) days after receiving such notice, perform the repairs and maintenance or make arrangements with the Association for making the repairs and maintenance required. Should any such person fail to fulfill this duty and responsibility within such period, then the Association, through its authorized agent or agents, shall have the right and power to enter onto the premises and perform such repair and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any person.

(c) Notwithstanding the provisions of Section 9.27(b) above, if, at any time, an Owner shall fail to control weeds, grass and/or other unsightly growth, the Association shall have the authority and right to go onto the Lot of such Owner for the purpose of mowing and cleaning said Lot and shall have the authority and right to assess and collect from the Owner of said Lot a sum up to twice the cost of the Association for mowing or cleaning said Lot on each respective occasion of such mowing or cleaning. If, at any time, weeds or other unsightly growth on the Lot exceed six inches (6") in height, the Association shall have the right and authority to mow and clean the Lot, as aforesaid.

(d) The Owners and occupants (including lessees) of any Lot on which work is performed pursuant to Sections 9.27(b) and (c) above shall, jointly and severally, be liable for the cost of such work [such costs constituting a special individual assessment as specified in Section 5.05(b) hereof] and shall promptly reimburse the Association for such cost. If such Owner or occupant shall fail to reimburse the Association within thirty (30) days after receipt of a statement for such work from the Association, then said indebtedness shall be a debt of all said persons, jointly and severally, and shall constitute a lien against that portion of the Properties on which said work was performed. Such lien shall have the same attributes as the lien for assessments and special assessments set forth in this Declaration, and the Association shall have the identical powers and rights in all respects, including but not limited to the right of foreclosure.

9.27 Maintenance of Common Properties. All landscaping and improvements placed or erected on the Common Properties by Declarant shall be owned and maintained by the Association.

9.28 Retaining Walls. Retaining walls shall be restricted to structurally engineered and designed walls constructed of natural stone and in a style similar to the retaining walls installed by Declarant between other Lots in the Subdivision. All retaining walls must be

approved, in writing, by the Architectural Control Committee. The responsibility for constructing and maintaining a retaining wall shall be borne by the Owner of the "high" side Lot.

9.29 Mailboxes. All mailboxes shall be constructed of stone, rock or brick identical to that of the residence and must be consistent in size and shape with existing mailboxes.

9.30 Basketball Goals/Hoops. Basketball goals, hoops, backboards and nets shall be permitted; provided, however, in no event shall such structure be allowed in the area between the front of the dwelling and the street adjacent thereto.

ARTICLE X ARCHITECTURAL CONTROL COMMITTEE

10.01 Architectural Control Committee. And as long as Declarant holds title to any of the Lots, the Architectural Control Committee, hereinafter called the "Committee", shall be composed of three (3) or more individuals selected and appointed by the Declarant. At such time as Declarant no longer owns any Lots, the Committee shall be composed of such individuals selected by a vote of the Members taken in accordance with Section 3.03 hereof. The Committee shall use its best efforts to promote and ensure a high level of quality, harmony and conformity throughout the Properties. The Committee shall function as the representative of the Owners for the purposes herein set forth as well as for all other purposes consistent with the creation and preservation of a first-class residential development.

A majority of the Committee may designate a representative to act for it. In the event of the death or resignation of any member of the Committee, the remaining members shall have full authority to designate and appoint a successor. No member of the Committee, nor their designated representative, shall be entitled to any compensation for services performed hereunder nor be liable for claims, causes of action or damages (except where occasioned by gross negligence or arbitrary and capricious conduct) arising out of services performed, actions taken, or inactions in connection with any undertaking, responsibility, or activity hereunder or request for action hereunder. At any time, the Declarant may delegate and assign to the Board of Directors, all of the Declarant's power and right to change the membership of the Committee, to withdraw or add powers and duties from or to the Committee, or to restore the powers and duties of the Committee. Such action by the Declarant shall be effective upon recordation of a written instrument properly reflecting same in the Office of the County Clerk of Collin County, Texas.

10.02 Architectural Approval. No building, structure, shed, fence, wall or improvement of any kind or nature shall be erected, constructed, placed, altered, changed or modified on any Lot until the plot plan showing the location of such building, structure, paving or improvement, construction plans and specifications thereof and landscaping and grading plans therefor have been submitted to and approved in writing by the Committee or a representative or agent designated by the Committee to act on behalf of the Committee as to: (i) location with respect to Lot lines; topography; finished grades elevation; effect of location and use on neighboring Lots and improvements situated thereon; and any drainage arrangement; (ii) conformity and harmony of external design, color, texture, type and appearance of exterior surfaces and landscaping with existing structures and existing landscaping; (iii) quality of workmanship and materials; adequacy of site dimensions; adequacy of structural design; proper

facing of main elevation with respect to nearby streets; (iv) conformity and compliance with the ordinances, codes, rules and regulations of the City of McKinney; and (v) the other standards set forth within this Declaration (and any amendments hereto) or as may be set forth in bulletins promulgated by the Committee. The Committee is authorized to request the submission of samples of proposed construction materials or colors of proposed exterior surfaces.

Final plans and specifications shall be submitted in duplicate to the Committee for approval or disapproval. At such time as the plans and specifications meet the approval of the Committee, one complete set of plans and specifications will be retained by the Committee and the other complete set of plans will be marked "Approved" and returned to the Owner. If found not to be in compliance with these Covenants and Restrictions, one set of such plans and specifications shall be returned marked "Disapproved", accompanied by a reasonable statement of items found not to comply with these Covenants and Restrictions. Any modification or change to the approved set of plans and specifications which materially affects items (i) through (iv) of the preceding paragraph must again be submitted to the Committee for its inspection and approval. The Committee's approval or disapproval as required herein shall be in writing. If the Committee or its designated representative fails to approve or disapprove such plans and specifications within thirty (30) days after they have been submitted, then Committee approval shall be presumed; provided, however, that nothing in this paragraph shall affect in any way the method for seeking or granting variances, as described in Section 10.03 hereof, nor shall any failure of the Committee to act on a variance request within any particular period of time constitute the granting or approval of any such variance request.

The Committee is authorized and empowered to consider and review any and all aspects of dwelling construction, construction of other improvements and location, quality and quantity of landscaping on the Lots, and may disapprove aspects thereof which may, in the reasonable opinion of the Committee, adversely affect the living enjoyment of one or more Owner(s) or the general value of the Properties. As an example, and not by way of limitation, the Committee may impose limits upon the location of window areas of one residential dwelling which would overlook the enclosed patio area of an adjacent residential dwelling. Also, the Committee is permitted to consider technological advances in design and materials and such comparable or alternative techniques, methods or materials may or may not be permitted, in accordance with the reasonable opinion of the Committee.

The Committee may, from time to time, publish and promulgate architectural standards bulletins and/or design guidelines which shall be fair, reasonable and uniformly applied and shall carry forward the spirit and intention of this Declaration. Such bulletins and guidelines shall supplement these Covenants and Restrictions and are incorporated herein by reference. The Committee shall have the authority to make final decisions in interpreting the general intent, effect and purpose of these Covenants and Restrictions.

PRIOR TO ACQUIRING ANY LOT OR CONSTRUCTING ANY STRUCTURE ON A LOT, EACH PROSPECTIVE PURCHASER, TRANSFEREE, MORTGAGEE, AND/OR OWNER IS STRONGLY ENCOURAGED TO CONTACT THE ARCHITECTURAL CONTROL COMMITTEE TO OBTAIN AND REVIEW THE MOST RECENT ARCHITECTURAL STANDARDS BULLETINS AND DESIGN GUIDELINES WHICH WILL CONTROL THE DEVELOPMENT, CONSTRUCTION, LANDSCAPE AND USE OF THE LOT AND THE STRUCTURES TO BE CONSTRUCTED THEREON.

THE ARCHITECTURAL STANDARDS BULLETINS AND DESIGN GUIDELINES MAY CONTAIN STANDARDS, REQUIREMENTS, OR LIMITATIONS IN ADDITION TO THOSE EXPRESSLY SET FORTH OR REFERRED TO IN THIS DECLARATION AND MORE STRINGENT STANDARDS, REQUIREMENTS, OR LIMITATIONS THAN THE SPECIFIC STANDARDS, REQUIREMENTS OR LIMITATIONS SET FORTH OR REFERRED TO IN THIS DECLARATION.

10.03 Variances. Upon submission of a written request for same, the Committee may, from time to time, in its sole discretion, permit Owners to construct, erect, or install improvements which are in variance from the architectural standards, the Covenants and Restrictions, or the previously published architectural bulletins which are provided in this Declaration or which may be promulgated in the future. In any case, such variances shall be in basic conformity with and shall blend effectively with the general architectural style and design of the community; provided, however, in no event shall any such variance reduce required floor area by more than ten percent (10%). No member of the Committee shall be liable to any Owner or other person claiming by, through, or on behalf of any Owner, for any claims, causes of action, or damages arising out of the granting or denial of, or other action or failure to act upon, any variance requested by an Owner or any person acting for or on behalf of any Owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a variance to any Owner shall not constitute a waiver of the Committee's right to strictly enforce the Covenants and Restrictions, architectural standards or published architectural bulletins provided hereunder against any other Owner. Each such written request must identify and set forth in detail the specific restriction or standard from which a variance is sought and describe in complete detail the exact nature of the variance sought. Any grant of a variance by the Committee must be in writing and must identify in narrative detail both the standards from which a variance is being sought and the specific variance being granted.

10.04 Nonconforming and Unapproved Improvements. The Association may require any Owner to restore such Owner's improvements to the condition existing prior to the construction thereof (including, without limitation, the demolition and removal of any unapproved improvement) if such improvements were commenced or constructed in violation of this Declaration. In addition, the Association may, but has no obligation to do so, cause such restoration, demolition and removal and levy the amount of the cost thereof as a special individual assessment against the Lot upon which such improvements were commenced or constructed.

10.05 No Liability. Neither Declarant, the Association, the Committee, the Board, nor the officers, directors, members, employees and agents of any of them, shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications and every Owner agrees that he will not bring any action or suit against Declarant, the Association, the Committee, the Board, or the officers, directors, members, employees or agents of any of them, to recover any such damages and hereby releases and quitclaims all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given. Plans and specifications are not approved for engineering or structural design or adequacy of materials,

and by approving such plans and specifications neither the Committee, the members of the Committee, the Declarant nor the Association assumes liability or responsibility therefor, nor for any defect in any structure constructed from such plans and specifications.

ARTICLE XI EASEMENTS

11.01 Ingress and Egress by the Association. The Association shall, at all times, have full rights of ingress and egress over and upon each Lot for the maintenance and repair of each Lot and the Common Properties in accordance with the provisions hereof, and for the carrying out by the Association of its functions, duties and obligations hereunder; provided, that any such entry by the Association upon any Lot shall be made with as little inconvenience to the Owner as practical, and any damage caused by the Association's entry, other than damages caused by the Owner, shall be repaired by the Association at the expense of the Association.

11.02 General. The rights and duties of the Owners with respect to sanitary sewer, water, electricity, natural gas, telephone and cable television lines and drainage facilities shall be governed by the following:

(a) Wherever (i) sanitary sewer or water service connections, (ii) natural gas, electricity, telephone or cable television lines, or (iii) drainage facilities are installed within the Properties, which connections, lines or facilities or any portion thereof lie in or upon Lots owned by any party other than the Owner of a Lot served by said connections, lines or facilities, such Owners of Lots served shall have the right and are hereby granted an easement to the full extent necessary therefore, to enter upon the Lots within or upon which said connections, lines or facilities or any portion thereof lie to repair, replace and generally maintain said connections, lines or facilities as and when the same may be necessary.

(b) Wherever (i) sanitary sewer or water service connections, (ii) natural gas, electricity, telephone or cable television lines, or (iii) drainage facilities are installed within the Properties, which connections, lines or facilities serve more than one Lot, the Owner of each Lot served by said connections, lines or facilities shall be entitled to the full use and enjoyment of such portions of said connections, lines or facilities which service such Owner's Lot.

11.03 Reservation of Easements. Easements over the Lots and Common Properties for the installation and maintenance of electric, telephone, cable television, water, gas and sanitary sewer lines and drainage facilities are hereby reserved by the Association, together with the right to grant and transfer same.

11.04 Surface Areas of Utility Easements. Easements for installation and maintenance of utilities are reserved as shown and provided for on the Plat. Underground electric, storm sewer, sanitary sewer, water, natural gas and telephone service shall be available to all Lots in the subdivision. Easements for the underground service may be crossed by driveways, walkways, patios, brick walls and fences, provided the Declarant or builder makes prior arrangements with the utility companies furnishing electric, storm sewer, sanitary sewer, water, natural gas and telephone service and provides and installs any necessary conduit of approved

type and size under such driveways, walkways, patios, brick walls or fences prior to construction thereof. Such easements for the underground service shall be kept clear of all other improvements, and neither the grantee nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees or servants, to shrubbery, trees, flowers or other improvements (other than for damages caused in crossing driveways, walkways, patios, brick walls or fences, providing conduit has been installed as outlined above) of the Owner located on the Lot covered by said easements. In addition, the utility easements shall not be used as alleyways.

11.05 Emergency and Service Vehicles. An easement is hereby granted to all police, fire protection, ambulance and other emergency vehicles and other service vehicles to enter upon the Common Properties, including but not limited to private streets, in the performance of their duties; and further, an easement is hereby granted to the Association, its officers, directors, agents, employees and management personnel to enter the Common Properties to render any service.

11.06 Universal Easement. The Owner of each Lot (including Declarant so long as Declarant is the Owner of any Lot) is hereby granted an easement not to exceed one (1) foot in width over all adjoining Lots and Common Properties for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of the building, or any other cause. There shall be easements for the maintenance of said encroachment, settling or shifting; provided, however, that in no event shall an easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to willful misconduct of said Owner or Owners. In addition, the Owner of each Lot is hereby granted an easement for minor encroachments [not to exceed three (3) feet in width] by overhanging roofs and eaves as originally constructed over each adjoining Lot and/or the Common Properties and for the maintenance thereof. Each of the easements hereinabove referred to shall be deemed to be established upon the recordation of this Declaration and shall be appurtenant to the Lot being serviced and shall pass with each conveyance of said Lot.

11.07 Easement for Maintenance and Repair of Lakes and Banks of Lakes. Declarant does hereby perpetually dedicate, establish, create and set aside a non-exclusive ten (10) foot wide easement over, across and upon the Properties, such easement to extend ten (10) feet in width along and around the entire length of any lakes and drainage ways situated on the Common Properties. Such easements are reserved for the exclusive benefit of Declarant, the Association and their respective successors and assigns, for the maintenance of the lakes, drainage ways, or the edges of such lakes and/or drainage ways situated within the Common Properties.

11.08 Wall and Landscape Easement. An easement of varying width may be established on the Plat for the maintenance and repair of the perimeter screening wall and the associated landscape and irrigation. Owners shall not alter, paint or otherwise use such walls even though such walls and easements may be located on or adjacent to such Owner's Lot. It is the responsibility of each Owner to maintain that portion of the landscaping within this easement which is enclosed by the wall on their respective Lot, however, the Association retains the right to enter upon the Properties and perform such maintenance as necessary.

11.09 Drainage Easement. Easements over the Lots and the Common Properties for the drainage and flow of surface water, as shown on the grading and drainage plans for the subdivision, are hereby reserved and retained for the benefit of the Association and/or its

successors and assigns. In addition, each Owner covenants to provide easements for drainage and water flow as contours of land and the arrangements of improvements, approved by the Architectural Control Committee, thereon required. Each Owner shall be responsible for maintaining his Lot so that there is no interference with the drainage patterns established by the grading and drainage plans, and, in the event any Owner shall interfere with the drainage patterns established by the grading and drainage plans, the Association shall have the right to enter such Lot to re-establish the proper drainage patterns.

ARTICLE XII PRIVATE STREET DEVELOPMENT

12.01 Private Street Development Designation. Streets and roads (referred to jointly in this Article as the "streets") within the Properties have not and will not be dedicated to the public, for public access nor shall they be accepted for the City of McKinney as public improvements, and the streets shall be maintained by the Association; provided, however, the streets shall always be open to Owners and their invited guests, emergency vehicles, public and private utility maintenance and service personnel, the U.S. Postal Service (and any other delivery service or parcel service) and governmental employees in pursuit of their official duties.

12.02 Private Street Easement. Declarant does grant and declare by these presents an easement of ingress, egress and regress over private streets within the Properties as depicted on the subdivision plat, for use in common with Declarant and all subsequent Declarants claiming by, from or under Declarant and for the Owners. The easement shall be for the benefit of the Owners and the fee simple title to the private streets themselves shall be held by the Association.

12.03 Construction and Maintenance of Private Streets. The obligation for street construction and maintenance of said private streets as so installed, unless and until the City of McKinney shall accept dedication thereof, shall be borne pro rata by the Association at the time the maintenance obligations and requirements accrue. The private streets shall be constructed and maintained to the standards of similarly situated public streets within the City of McKinney. The Association shall be responsible for periodic inspection and maintenance of all infrastructure except utilities, water, sanitary sewer, storm sewer, gas, cable, telephone and electric lines. The City of McKinney has no obligation to inspect or maintain the private streets within the Properties. As utilized herein, the term "street construction" shall be deemed to mean and include the construction of the private streets in accordance with specification shown on the subdivision plan as finally approved by the City of McKinney for the Properties. The maintenance of the private streets shall be deemed to include the maintenance of the surface thereof, the maintenance of the substructure supporting same, the stabilization of the street as means of access, and the removal of any ice, snow, vegetation, fences or other obstructions impairing not only the free and uninterrupted use of the private streets, but also the site distances and access thereto.

12.04 Private Street Assessment. Annually, each Owner shall pay as a part of his or her annual maintenance assessment his or her proportionate share of the cost of repair and maintenance of the private streets to the Association and the funds shall be deemed to be held in trust by the Association for the payment in strict accordance with the terms of the foregoing assessment. If any Owner fails to pay his pro rata share, the same may be enforced by the Association filing a lien or at law against any said Owner then in title. Should the Owners and the Association be unable to agree upon the need for or scope of maintenance, or the division

of costs of the maintenance for said private streets, the dispute shall be submitted by the Owners to the City of McKinney who shall be delegated the authority to make maintenance decisions and allocate expenses among the Owners as it, in its sole discretion, deems appropriate.

12.05 Private Street Replacement Reserve Fund. The Owners acknowledge that a reserve fund shall be established by the Association for the maintenance of the private streets and appurtenances. The Reserve Fund shall not be commingled with any other funds held by the Association.

12.06 City of McKinney Rights. Notwithstanding that the City of McKinney shall have no obligation to maintain or reconstruct the private streets as aforesaid, the City of McKinney may, but is not obligated to, inspect said private streets and require repairs necessary to insure that the same are maintained to the City of McKinney standards for said street improvements. In the event that the Association shall fail to carry out its duties as specified under this Article, the City of McKinney or its lawful agents shall have the right and ability, after thirty (30) days' prior written notice to the Association, to perform the responsibilities of the Association if the Owners and/or the Association fail to do so in compliance with this Article or of any applicable City of McKinney ordinances, regulations or agreements with the City of McKinney, and to assess the Association or the Owners for all costs incurred by the City of McKinney in performing said responsibilities if the Association fails to do so. The City of McKinney is hereby empowered to enforce any and all liens and lien rights granted to the Association to enforce the assessments required pursuant to this Article; and/or to avail itself of any other enforcement actions available to the City of McKinney pursuant to applicable State or City codes and regulations.

The City of McKinney will notify the Association of any violations of the private street regulations to which the private streets are subject. In the event of such notification, the failure of the Association to bring the Properties into compliance with regulations may cause the City of McKinney to revoke the Special Use Permit for private streets within the Properties. In the event of said revocation; the City of McKinney may correct all remaining violations, remove the security stations and unilaterally refile the subdivision plot thereby dedicating the streets to the public. All monies in the Reserve Fund will become the property of the City of McKinney and will be used to offset any costs associated with converting the private streets to public streets. In the event the balance of the Reserve Fund is not sufficient to cover all expenses, the Association and/or the Owners will be responsible for the amount of unpaid costs.

12.07 Consent to Modifications and Dissolution. No portion of this Article with respect to the maintenance of private streets may be amended without the prior written consent of the City of McKinney. In no event shall the Association be dissolved with respect to the undertakings of the Association in this Article.

12.08 City Services Not Provided. The City of McKinney shall not provide routine police patrols, enforcement of traffic and parking ordinances, and preparation of accident reports with respect to the private streets to be installed within the Properties. Notwithstanding the foregoing, the Association hereby provides rights of access to emergency vehicles, utility personnel, the U.S. Postal Service (and any other delivery or parcel service) and governmental employees in pursuit of their official duties, as well as the other entities and persons set forth in this Article.

12.09 Running with Land. The covenants herein contained shall be deemed covenants running with the land and shall be binding upon the Declarant and all subsequent Declarants and Owners claiming by, from and under Declarant to the extent herein provided and may be enforced by any Declarant then in title and by any Owner or Owners. In addition, the City of McKinney shall have the right, but not the duty to enforce the provisions of this Article, upon thirty (30) days prior written notice to the Declarant and any such Owner or Owners.

12.10 Emergency Vehicle Access Upon the Units. Anything herein to the contrary notwithstanding, there is hereby created on all private driveways having access to the private streets under this Article, a separate and distinct easement to permit emergency vehicles to turn off of any private streets into said driveways for the purpose of permitting said vehicles to reverse directions on the said private street. As used herein, the term "emergency vehicle" shall include, but not be limited to, fire trucks, ambulances, police cars, snow plows, tow trucks, and every other vehicle required for the purpose of preserving free access or performing emergency services on any Lot within the Properties. If the Association fails to maintain said access, the City of McKinney may enter the Properties and remove any gate or device, which is an impediment to access, at the sole expense of the Owner of such Lot.

ARTICLE XIII RIGHTS OF THE CITY OF MCKINNEY

In the event that the Association, its successors, or assigns, shall fail or refuse to adequately maintain the appearance and condition of the Common Properties which it is obligated to maintain hereunder or shall fail to exercise or enforce any other maintenance right or obligation, the City of McKinney shall have the right and may assume the duty of performing all such maintenance obligations of the Association at any time after the expiration of forty-five (45) days after receipt by the Association, its successors, or assigns, of written notice specifying in detail the nature and extent of the failure to maintain without such failure being remedied. Upon assuming such maintenance obligations, the City of McKinney may levy an assessment upon each Lot on a pro rata basis for the cost of such maintenance, notwithstanding any other provisions contained in this Declaration, which assessment shall constitute a lien upon the Lot against which each assessment is made. During the period the City of McKinney has a right and assumes the maintenance obligations set forth herein, the Association shall have no obligation or authority with respect to such maintenance. The right and authority of the City of McKinney to exercise its maintenance obligations shall cease and terminate when the Association, its successors, or assigns, shall present to the City of McKinney such reasonable evidence of its willingness and ability to resume such maintenance. In the event the City of McKinney assumes the duty of performing the maintenance obligations of the Association as provided herein, then the City of McKinney, its agents, representatives, and employees shall have right of access to and over the Common Properties for the purposes of maintenance, improvement, and preservation. In no event, and under no circumstances, shall the City of McKinney be liable to the Association or any Owner, Member or resident, or their respective heirs, executors, administrators, devisees, personal representatives, successors, assigns, or any other persons for negligent (but not gross negligence or willful misconduct) actions or omissions relating in any manner to its maintenance, improvement or preservation as provided in this Declaration.

ARTICLE XIV GENERAL PROVISIONS

14.01 Duration. The Covenants and Restrictions of this Declaration shall run with and bind the land subject to this Declaration, and shall inure to the benefit of and be enforceable by the Association and/or any Owner, their respective legal representatives, heirs, successors and assigns, for a term of thirty-five (35) years from the date that this Declaration is recorded in the Office of the County Clerk of Collin County, Texas, after which time these Covenants and Restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the Members entitled to cast seventy percent (70%) of the votes of the Association, in the aggregate, regardless of class, has been recorded in the Office of the County Clerk of Collin County, Texas, agreeing to abolish or terminate these Covenants and Restrictions; provided, however, that no such agreements to abolish shall be effective unless made and recorded one (1) year in advance of the effective date of such abolishment.

14.02 Amendments. Notwithstanding the terms and provisions of Section 14.01 hereof, this Declaration may be amended, modified and/or changed as follows:

(a) during the time Declarant is the Owner of any Lot, the Declarant may amend or change this Declaration with the consent of at least fifty-one percent (51%) of the outstanding votes of the Association, regardless of class;

(b) in all other situations, this Declaration may be amended or changed either upon the express written consent of Members entitled to cast at least seventy percent (70%) of the outstanding votes of the Association who are in attendance at a meeting called and held in accordance with Section 3.03 hereof, regardless of class, or at least seventy percent (70%) of the outstanding votes of the Association, regardless of class, whether or not a meeting is called.

However, this Declaration may not be amended, modified or terminated in such a manner that in any way affects the rights, obligations or duties of the City of McKinney without the prior written consent of the City of McKinney. Any and all amendments to this Declaration, shall be recorded in the Office of the County Clerk of Collin County, Texas. Notwithstanding the prior provisions of this Section 14.02, (a) the Declarant may execute and record amendments to this Declaration without such consent or approval if the amendment is for the purpose of correcting technical or typographical errors or for clarification only, and (b) as long as the Declarant is the Owner of any Lot, no amendment to this Declaration shall be effective without the prior written consent of the Declarant.

14.03 Enforcement. Enforcement of these Covenants and Restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate them, or to recover damages, or to enforce any lien created by these Covenants and Restrictions; and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In addition, should the Association prevail in any such litigation, the Association shall be entitled to recover its reasonable attorneys' fees.

14.04 Severability. Invalidation of any one of these Covenants and Restrictions by judgment or court order shall in no wise affect any other provision of this Declaration or the remainder of these Covenants and Restrictions which shall remain in full force and effect.

14.05 Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

14.06 Notices to Member/Owner. Any notice required to be given to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States mail, postage prepaid, addressed to the last known address of the person who appears as a Member or Owner on the records of the Association at the time of such mailing.

14.07 Notices to Mortgagees. If a holder of a mortgage on a Lot shall notify the Association of its address and the identity of the Lot and Owner covered by and granting such mortgage, then such holder(s) shall be entitled to receive, written notification from the Association of any default by the respective Owner in the performance of such Owner's obligations as established by this Declaration.

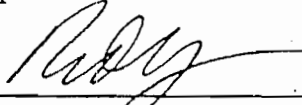
14.08 Disputes. Matters of dispute or disagreement between Owners with respect to interpretation or application of the provisions of this Declaration or the Bylaws of the Association shall be determined by the Board of Directors, whose determination shall be final and binding upon all Owners.

14.09 Termination of and Responsibility of Declarant. If Declarant shall convey all of its right, title and interest in and to the Properties and assign all its rights, benefits and obligations as Declarant hereunder to any partnership, individual or individuals, corporation or corporations, then and in such event Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of the Declarant.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed as of the 16 day of September, 1996.

ELDORADO/PROVINE, L.P.,
a Texas limited partnership

By: RMR DEVELOPMENT, INC.,
a Texas corporation - General Partner

By: 
Robert M. Ray, President

STATE OF TEXAS

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COUNTY OF DALLAS

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared ROBERT M. RAY, President of RMR DEVELOPMENT, INC., a Texas corporation, and the general partner of ELDORADO/PROVINE, L.P., a Texas limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of such corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 16th day of September, 1996.

Deborah L. Edwards
Notary Public, State of Texas

My Commission Expires:

(Printed or Typed Name of Notary)

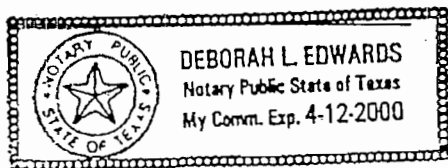


EXHIBIT A

FIELD NOTES

WHEREAS ELDORADO/PROVINE, L.P., A TEXAS LIMITED PARTNERSHIP, IS THE SOLE OWNER OF A 31.835 ACRE TRACT OF LAND SITUATED IN THE W.D. THOMPSON SURVEY, ABSTRACT NO. 891, AND IN THE FRANCIS C. WILMETH SURVEY, ABSTRACT NO. 998, COLLIN COUNTY, TEXAS, BEING ALL OF THAT CERTAIN TRACT OF LAND DESCRIBED IN DEED TO ELDORADO LAKES JOINT VENTURE, AS RECORDED IN COUNTY CLERKS FILE NO.95-0066825, OF THE DEED RECORDS OF COLLIN COUNTY, TEXAS. SAID 31.835 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT 1/2" IRON ROD FOUND AT THE SOUTHWEST CORNER OF SAID 31.835 ACRE TRACT, SAID CORNER BEING IN THE CENTERLINE OF A DIRT ROAD, ALSO BEING THE SOUTHEAST CORNER OF THAT CERTAIN TRACT OF LAND CONVEYED TO LENNAR HOMES OF TEXAS, AS RECORDED IN COUNTY CLERK FILE NO 95-0070588, OF SAID DEED RECORDS;

THENCE ALONG THE COMMON LINE OF SAID LENNAR HOMES, AND SAID 31.835 ACRE TRACT THE FOLLOWING SIX COURSES AND DISTANCES;

N 00°02'19" W, A DISTANCE OF 1433.86 FEET TO A 1/2" IRON ROD FOUND;

N 65°48'53" E, A DISTANCE OF 56.62 FEET TO A 1/2" IRON ROD FOUND;

N 59°36'40" E, A DISTANCE OF 91.54 FEET TO A 1/2" IRON ROD FOUND;

N 46°04'59" E, A DISTANCE OF 145.54 FEET TO A 5/8" IRON ROD FOUND;

N 45°59'41" E, A DISTANCE OF 13.82 FEET TO A 5/8" IRON ROD CAPPED "CARTER & BURGESS" SET FOR CORNER;

NORTH 00°00'00" EAST, A DISTANCE OF 525.60 FEET TO A POINT IN THE LAKE, SAID CORNER BEING ON THE SOUTH LINE OF THAT CERTAIN TRACT OF LAND CONVEYED TO RICHARD L. RAGSDALE, RECORDED IN COUNTY CLERK FILE NO. 92-0090849, OF SAID DEED RECORDS;

THENCE N 52°35'24" E, ALONG SAID SOUTH LINE, A DISTANCE OF 175.23 FEET TO A POINT IN THE LAKE, SAID POINT BEING ON THE WEST LINE OF THAT CERTAIN TRACT OF LAND CONVEYED TO MCKINNEY-HARDIN LTD., PARTNERSHIP, AS RECORDED IN COUNTY CLERKS FILE NO. 95-0059222;

THENCE ALONG THE COMMON LINE OF SAID MCKINNEY-HARDIN, AND SAID 31.835 ACRE TRACT, THE FOLLOWING THREE COURSES AND DISTANCES;

S 34°44'15" E, A DISTANCE OF 481.51 FEET TO A 5/8" IRON ROD FOUND;

S 14°24'38" E, A DISTANCE OF 777.03 FEET TO A 5/8" IRON ROD FOUND;

S 86°06'22" E, A DISTANCE OF 150.02 FEET TO A 1/2" IRON ROD FOUND, SAID CORNER BEING ON THE WEST LINE OF THAT CERTAIN TRACT OF LAND CONVEYED TO JERRY BOLIN, AS RECORDED IN VOLUME 3731, PAGE 023, OF SAID DEED RECORDS;

THENCE S 06°59'33" W, ALONG SAID WEST LINE OF BOLIN A DISTANCE OF 570.37 FEET TO A 60D NAIL FOUND IN CENTERLINE OF SAID ROAD;

THENCE S 60°45'58" W, ALONG SAID DIRT ROAD, PASSING AT 787.46 FEET A 5/8" IRON ROD FOUND, CONTINUING IN ALL A DISTANCE OF 1067.58 FEET THE POINT OF BEGINNING, AND CONTAINING 31.835 ACRES OF LAND, MORE OR LESS.