

**COVENANTS, CONDITIONS  
&  
RESTRICTIONS**

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR TEN OAKS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration") is made on the date hereinafter DALLAS-FRISCO ASSOCIATES, a California limited hereinafter referred to as the "Declarant".

W I T N E S S E T H:

WHEREAS, the Declarant is the owner of certain real property the City of Allen, Collin County, Texas, which is Exhibit "A" attached hereto and made a part hereof (the "Property").

WHEREAS, Declarant desires to create an exclusive planned community known as "Ten Oaks" on the Property and such other land as may be added thereto pursuant to the terms and provisions of this Declaration;

NOW, THEREFORE, Declarant declares that the Property shall be held, sold and conveyed subject to the restrictions, covenants, and conditions declared below, which shall be deemed to be covenants running with the land and imposed on and intended to benefit and burden each Lot and other portions of the Property in order to maintain within the Property a planned community of high standards. Such covenants shall be binding on all parties having any right, title or interest therein or any part thereof, their respective heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE 1  
DEFINITIONS

Section 1.1. "Architectural Control Committee" shall mean the committee created pursuant to this Declaration to review and approve plans for the construction of Improvements upon the Property.

Section 1.2. "Architectural Control Committee Rules" shall mean the rules and regulations adopted by the Architectural Control Committee, as from time to time amended.

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Section 1.3. "Association" shall mean and refer to Ten Oaks Homeowners Association, Inc., a Texas nonprofit corporation established for the purpose set forth herein.

Section 1.4. "Board" shall mean the Board of Directors of the Association.

Section 1.5. "Builder" shall mean and refer to any residential building company acquiring Lots from the Declarant for the purpose of construction and sale of homes.

Section 1.6. "Common Areas" shall mean and refer to that portion of the Property, if any, conveyed to the Association for the use and benefit of the Owners.

Section 1.7. "Common Maintenance Areas" shall mean and refer to the Common Areas, if any, and the entrance monuments, drainage facilities, detention ponds, right-of-way landscaping, perimeter walls, recreational facilities, and such other areas lying within dedicated public easements or right-of-way that the Board of Directors of the Association deems it necessary or appropriate to maintain for the common benefit of the Owners.

Section 1.8. "Declarant" shall mean and refer to Dallas-Frisco Associates, a California limited partnership, and its successors and assigns who are designated as such in writing by the Declarant, and who consent in writing to assume the duties and obligations of the Declarant with respect to the Lots acquired by such successor or assign.

Section 1.9. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Ten Oaks, and any amendments, annexations and supplements thereto made in accordance with its terms.

Section 1.10. "Improvement" shall mean every structure and all appurtenances thereto of every type and kind, including but not limited to buildings, outbuildings, storage sheds, patios, tennis courts, swimming pools, garages, storage buildings, fences, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment, poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers, and any facilities used in connection

with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

Section 1.11. "Lot" shall mean and refer to any of the plots of land indicated upon any recorded subdivision plat of the Property or any part thereof creating single-family homesites, with the exception of the Common Area and areas deeded to a governmental authority or utility, together with all improvements thereon.

Section 1.12. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

Section 1.13. "Plans and Specifications" shall mean the documents designed to guide or control the construction or erection of any Improvement, including but not limited to those indicating location, size, shape, configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, elevation drawings, floor plans, specifications on all building products and construction techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to such Improvement.

Section 1.14. "Property" shall mean and refer to the real property described in Exhibit "A", and such additions thereto as may be brought within the jurisdiction of the Association and be made subject to this Declaration.

Section 1.15. "Unit" shall mean and refer to any residential dwelling situated upon any Lot.

ARTICLE II  
TEN OAKS HOMEOWNERS ASSOCIATION, INC.

Section 2.1. Membership. The Declarant and every other Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and shall not be separated from ownership of any Lot. There shall be two (2) classes of membership, as described in Section 2.6 hereof.

Section 2.2. Funding. Subject to the terms of this Article, Declarant, for each Lot owned by Declarant, hereby covenants to pay, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements to the Common Areas, such assessments to be established and collected as hereinafter provided. Such assessments will remain effective for the full term (and extended term, if applicable) of this Declaration. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the successors in title of such Owner unless expressly assumed by them, in writing.

Section 2.3. Annual Assessment or Charge.

(a) Units Owned by Class A Members. Each Lot shall be subject to an assessment or charge in the amount established from time to time by the Board of Directors of the Association, for the purpose of creating a fund to be designated and known as the "maintenance fund", which maintenance charge and assessment will be paid by the Owner or Owners of each such Lot in advance in monthly, quarterly, semi-annual or annual installments, as determined by the Board of Directors of the Association. The rate at which each Lot will be assessed, and whether such assessment shall be payable monthly, quarterly or annually, will be determined by the Board of Directors of the Association at least thirty (30) days in advance of each assessment period. Said rate may thereafter be adjusted from time to time during such assessment period by the Board of Directors as the needs of the Association may, in the judgment of the Directors, require. The assessment for each Lot shall be uniform except as provided in Subsection (b) of this Section 2.3. The Association shall, upon written demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether or not the assessment has been paid for the assessment period.

(b) Units on Lots owned by Declarant. Notwithstanding the foregoing, Declarant shall be exempt from the annual maintenance assessment charged to Owners so long as there is a Class B membership as set forth in Section 2.6. So long as the Class B Membership is in existence, Declarant hereby covenants and agrees that in the event that the annual maintenance fund revenues are insufficient to pay the operating expenses of the Association, Declarant shall provide the funds necessary to make up the deficit, within thirty (30) days of receipt of request for payment thereof from the Association, provided that if such deficit is the result of the failure or refusal of an Owner or Owners to pay their annual maintenance assessments, the Association shall diligently pursue all available remedies against such defaulting Owners, including the immediate institution of litigation to recover the unpaid assessments, and shall reimburse the Declarant the amounts, if any, so collected. In the alternative, Declarant shall have the right to pay full Class A assessments on its Lots without thereby relinquishing its Class B status and shall then be excused from the payment of any budget deficits.

(c) Purposes of Maintenance Fund. The Association shall establish a maintenance fund composed of annual maintenance assessments and shall use the proceeds of such fund in providing for normal, recurring maintenance charges for the Common Maintenance Areas for the use and benefit of all members of the Association. Such uses and benefits to be provided by the Association may include, by way of clarification and not limitation, any and all of the following: normal, recurring maintenance of the Common Maintenance Areas (including, but not limited to, mowing, edging, watering, clipping, sweeping, pruning, raking, and otherwise caring for existing landscaping) and the improvements to such Common Maintenance Areas, such as sprinkler systems, provided that the Association shall have no obligation (except as expressly provided hereinafter) to make capital improvements to the Common Maintenance Areas; perpetual maintenance and enhancement for recreational facilities, walls, grounds, landscaping, lights, irrigation and electricity for rights-of-way; maintenance of the medians, the planting of flowers and maintenance of community signage along said rights-of-way; payment of all legal and other expenses incurred in connection with the enforcement of all recorded covenants, restrictions and conditions affecting the property to which the maintenance fund applies; payment of all reasonable and necessary expenses in

connection with the collection and administration of the maintenance charge and assessment; employment of policemen and watchmen, if any, caring for vacant Lots; and doing any other thing or things necessary or desirable in the opinion of the Board of Directors of the Association to keep the Property neat and in good order, or which is considered of general benefit to the Owners or occupants of the Property, it being understood that the judgment of the Board of Directors in the expenditure of said funds and the determination of what constitutes normal, recurring maintenance shall be final and conclusive so long as such judgment is exercised in good faith. The Association shall, in addition, establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements of the Common Maintenance Area. The fund shall be established and maintained out of regular annual assessments.

The Association shall be responsible for the continuous and perpetual operation, maintenance and/or supervision of landscape systems, features or elements located in Common Areas or Common Maintenance Areas, and as identified herein or on the subdivision plat. The City of Allen shall be responsible for all median maintenance and all paving maintenance (except for private streets or private roads) and the repair of landscape systems, features or elements damaged by City-initiated utility work in dedicated easements. Other damage occurring during utility repairs will be the responsibility of the appropriate utility company.

Should the Association or its Board fail or refuse to maintain such Common Areas or Common Maintenance Areas to the City of Allen's specifications for an unreasonable time, not to exceed ninety (90) days after written request to do so, the City of Allen, by and through a majority of its City Council Members, shall have the same right, power and authority as is herein given to the Association and its Board of Directors to enforce these covenants and levy assessments necessary to maintain the Common Areas and Common Maintenance Areas identified herein. It is understood that in such event, the City of Allen, Texas, through its City Council, may elect to exercise the rights and powers of the Association or its Board of Directors, to the extent necessary to take any action required and levy any assessment that the Association might have, either in the name of the Association, or otherwise, to cover the cost of maintenance of said Common Areas and Common Maintenance Areas.

(d) Special Assessment for Working Capital Fund, Nonrecurring Maintenance and Capital Improvements. In addition to the annual assessments authorized above, the Association may levy special assessments as follows:

(i) Upon sale of the first Lot by Declarant to a Class A Member, a special assessment equal to ten (10) months estimated regular assessment may be assessed which shall be due and payable upon conveyance of the Lot to a Class A Member. Such special assessment shall be available for all necessary expenditures of the Association.

(ii) In any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any nonrecurring maintenance, or the acquisition, construction, reconstruction, repair or replacement of a capital improvement upon any Common Maintenance Area, including fixtures and personal property related thereto, may be assessed. The Association shall not commingle the proceeds of such special assessment with the maintenance fund. Such proceeds shall be used solely and exclusively to fund the nonrecurring maintenance or improvements in question.

Section 2.4. Non-payment of Assessments: Remedies of the Association. Any assessment not paid within ten (10) days after the due date shall bear interest from the due date at the highest non-usurious rate of interest allowed by Texas law from time to time. The Association shall have the authority to impose late charges to compensate for the administrative and processing costs of late payments on such terms as it may establish by duly adopted resolutions and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien retained herein against such Owner's property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Maintenance Area or abandonment of such Owner's property.

Section 2.5. Subordinated Lien to Secure Payment. To secure the payment of the maintenance charge and assessment established hereby and to be levied on individual Lots as above provided, there is hereby reserved a lien for the benefit of the Association, said lien to be enforceable through appropriate proceedings at law or in

equity by such beneficiary; provided, however, that each such lien shall be specifically made secondary, subordinate and inferior to all liens, present and future, given, granted, and created by or at the insistence and request of the Owner of any such Lot to secure the payment of monies advanced or to be advanced on account of the purchase price and/or the improvement of any such Lot; and further provided that as a condition precedent to any proceeding to enforce such lien upon any Lot upon which there is an outstanding valid and subsisting first mortgage lien, said beneficiary shall give the holder of such first mortgage sixty (60) days written notice of such proposed action, such notice, which shall be sent to the nearest office of the first mortgage lienholder by prepaid U.S. registered mail, to contain the statement of the delinquent maintenance charges upon which the proposed action is based. Upon the request of any such first mortgage lienholder, and beneficiary shall acknowledge in writing its obligation to give the foregoing notice with respect to the particular property covered by such first mortgage lien to the particular property covered by such first mortgage lien to holder thereof. Sale or transfer of a Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale, foreclosure or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. The Association shall have the right to file notices of liens in favor of the Association in the Official Public Records of Denton County, Texas.

Section 2.6. Voting Rights. The Association shall have two classes of voting membership:

(a) Class A. Class A members shall be all Owners with the exception of Declarant. Except as provided in Section 2.6(b) below, each Class A member shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members, but the vote for such Lot shall be exercised as they among themselves determine, and in no event shall more than one (1) vote be cast with respect to any Lot.

(b) Class B. The Class B member shall be Declarant. Until such time as all Lots owned by Declarant have been sold and conveyed, all votes of the Association shall be cast solely by the Class B member to the exclusion of the Class A members. The Class

B membership shall cease after the conveyance by the Class B member of the last Lot owned by the Class B member. Class B membership shall be reinstated at any time if additional Lots owned by a Class B member are annexed to this Declaration, but any such reinstated Class B status shall terminate upon the occurrence of the events set forth above. Notwithstanding the foregoing, the Class B member may at any time voluntarily convert its Class B membership to Class A membership.

(c) Suspension. All voting rights of an Owner shall be suspended during any period in which such Owner is delinquent in the payment of any assessment duly established pursuant to this Article II or is otherwise in default hereunder of under the Bylaws or Rules and Regulations of the Association and such suspension shall apply to the proxy authority of the voting representative, if any.

Section 2.7. Notice and Quorum. Written notice of any meeting called for the purpose of taking any action authorized herein shall be sent to all members, or delivered to their residences, not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At any such meeting called, the presence of members or of proxies or voting representatives entitled to cast ten percent (10%) of the aggregate of all the votes outstanding under Section 2.6 hereof shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at such subsequent meeting shall be two-thirds (2/3) of the quorum requirement for such prior meeting. The Association may call as many subsequent meetings as may be required to achieve a quorum (the quorum requirement being reduced for each such meeting). No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

ARTICLE III  
GENERAL POWERS AND DUTIES OF  
BOARD OF DIRECTORS OF THE ASSOCIATION

Section 3.1. Purpose of Maintenance Fund. The Board, for the benefit of the Owners, shall provide and shall pay for out of the maintenance fund provided for in Article II above the following:

(a) Taxes and assessments and other liens and encumbrances which shall properly be assessed or charged against the Common Areas rather than against the individual Owners, if any.

(b) Care and preservation of the Common Maintenance Area.

(c) The services of a professional person or management firm to manage the Association or any separate portion thereof to the extent deemed advisable by the Board (provided that any contract for management of the Association shall be terminable by the Association, with no penalty upon ninety (90) days prior written notice to the managing party) 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.

(d) Legal and accounting services.

(e) A policy or policies of insurance insuring the Association against any liability to the public or to the Owners (and/or invitees or tenants) incident to the operation of the Association in any amount or amounts as determined by the Board of Directors, including a policy or policies of insurance as provided herein in Article IV.

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

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

(h) Any other materials, supplies, insurance, furniture, labor, services, maintenance, repairs, structural alterations, taxes or assessments (including taxes or assessments assessed against an individual Owner) 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 enforcement of this Declaration.

Section 3.2. Powers and Duties of Board. The Board, for the benefit of the Owners, shall have the following general powers and duties, in addition to the specific powers and duties provided for herein and in the Bylaws of the Association:

(a) To execute all declarations of ownership for tax assessment purposes with regard to the Common Areas, if any, on behalf of all Owners;

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

(c) To enter into contracts, maintain one or more bank accounts, and generally to have all the power necessary or incidental to the operation and management of the Association;

(d) To protect or defend the Common Areas from loss or damage by suit or otherwise and to provide adequate reserves for replacements;

(e) To make reasonable rules and regulations for the operation of the Common Maintenance Areas 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 Owners constituting a majority of the votes of the Association, or with respect to a rule applicable to less than all of the Common Areas, by the Owners in the portions affected;

(f) To make available for inspection by Owners within sixty (60) days after the end of each year an annual report and to make all books and records of the Association available for inspection by Owners at reasonable times and intervals;

(g) 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 Owners in proportionate amounts to cover the deficiency;

(h) To enforce the provisions of this Declaration and any rules made hereunder and to enjoin and seek damages and impose and collect fines from any Owner for violation of such provisions or rules;

(i) To fix the amount of and collect all assessments and enforce all penalties for non-payment including the filing of liens and institution of legal proceedings;

(j) To engage the services of a person or firm to manage 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;

(k) To obtain and pay for legal and accounting services;

(l) To obtain and pay for any materials, supplies, furniture, labor, services, maintenance, repairs, structural alteration, taxes or assessments which the Board is required to obtain or pay for pursuant to the terms of this Declaration 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;

(m) To supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

(n) To enter into agreements or contracts with insurance companies, taxing authorities and the holders of first mortgage liens on the individual Lots with respect to (i) taxes (if any) on the Common Areas, and (ii) insurance coverage (if any) on Common Areas;

(o) To appoint committees as deemed necessary or desirable for the handling of certain specific functions of the Association; and

(p) To establish, disburse and maintain such bank accounts and petty cash funds as necessary for efficiently carrying on the business of the Association.

Section 3.3. Board Powers Exclusive. The Board shall have the exclusive right to contract for all goods, services and insurance, payment of which is to be made from the maintenance fund and the exclusive right and obligation to perform the functions of the Board except as otherwise provided herein.

Section 3.4. Maintenance Contracts. The Board, on behalf of the Association, shall have full power and authority to contract with any Owner or other person or entity for the performance by the Association of services which the Board is not otherwise required to perform pursuant to the terms hereof, such contracts to be upon

such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interest of the Association.

ARTICLE IV  
TITLE TO COMMON AREAS

Section 4.1. Association to Hold. The Association shall own all Common Areas in fee simple and assume all maintenance obligations with respect to any Common Areas which may be hereafter established. Nothing contained herein shall create an obligation on the part of Declarant to establish any Common Area.

Section 4.2. Liability Insurance. From and after the date on which title to any Common Area vests in the Association, the Association shall purchase and carry a general comprehensive public liability insurance policy for the benefit of the Association and its members, covering occurrences on the Common Areas. The policy limits shall be as determined by the Board of Directors of the Association. The Association shall use its best efforts to see that such policy shall contain, if available, cross-liability endorsements or other appropriate provisions for the benefit of the members, Directors, and the management company retained by the Association (if any), insuring each against liability to each other insured as well as third parties. Any proceeds of insurance policies owned by the Association shall be received, held in a segregated account and distributed to the Association's general operating account, members, Directors, the management company and other insureds, as their interests may be determined.

Section 4.3. Condemnation. In the event of condemnation or a sale in lieu thereof of all or any portion of the Common Areas, the funds payable with respect thereto shall be payable to the Association and shall be used by the Association to purchase additional Common Areas to replace that which has been condemned or to take whatever steps are it deems reasonably necessary to repair or correct any damage suffered as a result of the condemnation. In the event that the Board of Directors of the Association determines that the funds cannot be used in such a manner due to lack of available land for additional Common Areas or for whatever reason, any remaining funds may be distributed to each Owner on a pro rata basis.

ARTICLE V  
EASEMENTS

Section 5.1. Utility Easements. As long as Class B membership shall be in effect, the Declarant hereby reserves the right to grant perpetual, nonexclusive easements for the benefit of the Declarant or its designees, upon, across, over, through and under any portion of the Common Area or any portion of any Lot outside of the permitted building area of such Lot, for ingress, egress, installation, replacement, repair, maintenance, use and operation of all utility and service lines and service systems, public and private, including, without limitation, cable television. Declarant, for itself and its designees, reserves the right to retain title to any such easements. Upon cessation of Class B membership, the Association shall have the right to grant the easements described herein.

Section 5.2. Declarant's Easement of Correct Drainage. As long as Class B membership shall be in effect, Declarant hereby reserves for the benefit of Declarant a blanket easement on, over and under the ground within the Property to maintain and correct drainage of surface waters and other erosion controls in order to maintain reasonable standards of health, safety and appearance and shall be entitled to remove trees or vegetation, without liability for replacement or damages, as may be necessary to provide adequate drainage facilities. Notwithstanding the foregoing, nothing herein shall be interpreted to impose any duty upon Declarant to correct or maintain any drainage facilities within the Property.

Section 5.3. Easement for Unintentional Encroachment. The Declarant hereby reserves an exclusive easement for the unintentional encroachment by any structure upon the Common Area caused by or resulting from, construction, repair, shifting, settlement or movement of any portion of the Property, which exclusive easement shall exist at all times during the continuance of such encroachment as an easement appurtenant to the encroaching property to the extent of such encroachment.

Section 5.4. Entry Easement. In the event that the Owner fails to maintain the Lot as required herein, or in the event of emergency, the Association shall have the right to enter upon the Lot to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the Property.

Entry upon the Lot as provided herein shall not be deemed a trespass, and the Association shall not be liable for any damage so created unless such damage is caused by the Association's willful misconduct or gross negligence.

Section 5.5. Drainage Easements. Easements for the installation and maintenance of utilities, stormwater retention/detention ponds, and/or a conservation area are reserved as may be shown on the recorded plat. Within these easement areas, no structure, plant or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may hinder or change the direction or flow of drainage channels or slopes in the easements. The easement area of each Lot and all improvements contained therein shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority, utility company or the Association is responsible.

Section 5.6. Temporary Completion Easement. All Lots shall be subject to easement of ingress and egress for the benefit of Declarant, its employees, subcontractors, successors and assigns, over and upon the front, side and rear yards of the Property as may be expedient or necessary for the construction, servicing and completion of dwellings and landscaping upon Lots adjacent to the Property, provided that such easement shall terminate twelve (12) months after the date such Lot is conveyed to the Owner by Declarant.

#### ARTICLE VI USE AND OCCUPANCY

All Lots and dwellings shall be used and occupied for single-family residence purposes only. No Lot or dwelling may be used for commercial, institutional or other non-residential purpose if such use involves the attendance or entry of non-residents upon the Lot or otherwise diminishes the residential character of the Lot or neighborhood. This prohibition shall not apply to "garage sales" conducted with prior written consent of the Association provided that no Owner shall conduct more than one (1) garage sale of no more than two (2) days duration each during any six (6) month period or, the use of any Unit by Declarant or any Builder as a model home or sales office, or the use of any Lot as a site for a

construction office trailer or sales office trailer by Declarant or any Builder.

ARTICLE VII  
PROPERTY RIGHTS

Section 7.1. Owners' Easement of Enjoyment. Every Owner shall have a right and easement in and to the Common Areas and a right and easement of ingress and egress to, from and through said Common Areas, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to establish and publish rules and regulations governing the use of the Common Areas affecting the welfare of Association members;

(b) The right of the Association to suspend the right of use of the Common Areas and the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) The right of the Association, subject to the provisions hereof, to dedicate or transfer all or any part of the Common Areas, if any, to any public agency, authority or utility for such purposes and subject to the conditions as may be agreed by the Association. No such dedication or transfer shall be effective unless an instrument signed by Owners entitled to cast two-thirds (2/3) of the votes of each class of membership has been recorded agreeing to such dedication or transfer;

(d) All easements herein described are easements appurtenant to and running with the land; they shall at all times inure to the benefit of and be binding upon the Owners, and all of their grantees, and their respective heirs, successors, personal representatives and assigns, perpetually and in full force.

Section 7.2. Effect of Declaration. Reference in any deed, mortgage, trust deed or any other recorded documents to the easements, restrictions and covenants herein described or to this Declaration shall be sufficient to create and reserve such easements and covenants to the respective grantees, mortgagees, or trustees of said parcels as fully and completely as if those

easements, restrictions and covenants were fully related and set forth in their entirety in said documents.

Section 7.3. Rezoning Prohibited. No Lot shall be rezoned to any classification allowing commercial, institutional or other nonresidential use without the express consent of the Association and Declarant (as long as Declarant owns any Lot subject to this Declaration), which may be withheld in Declarant's sole discretion. Declarant or the Association may enforce this covenant by obtaining an injunction against any unapproved rezoning at the expense of the enjoined party.

ARTICLE VIII  
USE RESTRICTIONS

Section 8.1. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done which may be or may become an annoyance or nuisance to the neighborhood.

Section 8.2. Development Activity. Notwithstanding any other provision herein, Declarant and its successors and assigns (including Builders) shall be entitled to conduct on the property all activities normally associated with and convenient to the development of the Property and the construction and sale of dwelling units on the Property.

Section 8.3. Temporary Structures. No structure of a temporary character, including, without limiting the generality thereof, any trailer, tent, shack, garage, barn, motor home or mobile home or other outbuilding, and no prefabricated or relocated structures, shall be used on any Lot at any time as a residence, either temporarily or permanently. This restriction shall not be interpreted to limit the right of Declarant or any Builder to use trailers or outbuildings as sales offices, construction offices or material storage facilities.

Section 8.4. Signs and Picketing. No sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted or attached to any Unit, fence or other improvement upon such Lot so as to be visible from public view or mounted on any vehicle or trailer parked or driven in the subdivision or carried by any person or by any other means displayed within the subdivision except the following:

(a) For Sale Signs. An Owner may erect one (1) sign not exceeding 2' x 3' in area, fastened only to a stake in the ground and extending not more than three (3) feet above the surface of the ground advertising the Property for sale.

(b) Declarant's Signs. Signs or billboards may be erected by the Declarant or any Builder.

(c) Political Signs. Political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal provided that such signs shall not be erected more than ninety (90) days in advance of the election to which they pertain and are removed within fifteen (15) days after the election.

In addition to the foregoing, to protect the safety and harmony of the community, no person shall engage in picketing on any Lot, easement, right-of-way or Common Area within or adjacent to the Property, nor shall any vehicle parked, stored or driven in or adjacent to the Property bear or display any signs, slogans, symbols, words or decorations intended to create controversy, invite ridicule or disparagement, or interfere in any way with the exercise of the property rights, occupancy or permitted business activities of any Owner or Declarant.

Section 8.5. Campers, Trucks, Boats, and Recreational Vehicles. No campers, trucks in excess of one (1) ton, boats, boat trailers, recreational vehicles and other types of non-passenger vehicles, equipment, implements or accessories may be kept on any Lot unless the same are fully enclosed within the garage located on such Lot and/or said vehicles and accessories are screened from view by a screening structure or fencing and said vehicles and accessories are in an operable condition. The Association shall have the absolute authority to determine from time to time whether a vehicle and/or accessory is operable and adequately screened from public view.

Section 8.6. Construction in Place. All Units constructed on the Property shall be built in place on the Lot and the use of prefabricated materials other than trusses and wall panels shall be allowed only with the prior written approval of the Architectural Control Committee.

Section 8.7. Unfinished Structures. No structure shall remain unfinished for more than two hundred seventy (270) days after construction has commenced. Construction of the primary Unit shall begin no later than one (1) year after ownership of the Lot has been legally conveyed by Declarant.

Section 8.8. New Materials. Only new materials shall be utilized in constructing any structures situated upon a Lot, unless approved by the Architectural Control Committee.

Section 8.9. No Window Units. No window or wall type air conditioner which is visible from any street in the Subdivision shall be permitted to be used, placed or maintained on or in any building in any part of the Property.

Section 8.10. Pets, Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except for cats, dogs or other generally recognized household pets of a reasonable number, provided that they are not kept, bred, or maintained for any commercial purpose; and provided further, than no more than four (4) adult animals may be kept on a single Lot. All such animals shall be kept in strict accordance with all local laws and ordinances (including leash laws).

Section 8.11. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. No cans, bags, containers or receptacles for the storing or disposal of trash, garbage, refuse, rubble, or debris shall be stored, kept, placed or maintained on any Lot where visible from any street except solely on a day designated for removal of garbage and rubbish and on which days only such cans, bags, containers, and receptacles may be placed in front of a residence and beside a street for removal but shall be removed from view before the following day.

Section 8.12. Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and in a line connecting them at points twenty-five (25) feet from the intersection of the street property lines, or in the case of a

rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 8.13. Parking. No vehicles, trailers, implements or apparatus may be driven or parked in the Common Maintenance Area or on any easement unless in use for maintaining such Common Maintenance Areas.

Section 8.14. Commercial or Institutional Use. No Lot, and no building erected or maintained on any Lot shall be used for manufacturing, industrial, business, commercial, institutional or other non-residential purposes, except for construction offices, model homes and sales offices as set forth in Article VII.

Section 8.15. Building Standards. No building shall be erected or maintained on any Lot unless it complies with all applicable standards, including any governmental ordinances.

Section 8.16. Detached Buildings. No detached accessory buildings, including, but not limited to, detached garages and storage buildings, shall be erected, placed or constructed upon any Lot without the prior consent of the Architectural Control Committee.

Section 8.17. Fences. No fence, wall or hedge shall be erected or maintained on any Lot nearer to the street than the building setback lines for the front yard. Except as may be necessary to maintain the sight distances required by Section 8.12, side yard fences may be erected along the side property lines of the Lots. All fences shall be constructed of wood or masonry except for retaining walls installed by Declarant or retaining walls or decorative walls approved by the Architectural Control Committee. All fences shall be at least six (6) feet in height and not more than eight (8) feet in height, except sales office or model home fences. No chain-link, metal cloth or agricultural fences may be built or maintained on any Lot.

Section 8.18. Antennae, Satellite Dishes and Solar Collectors.

No Owner may erect or maintain a television or radio receiving or transmitting antenna or similar equipment upon any Lot unless such apparatus is erected and maintained in such a way that it is screened from public view in a manner acceptable to the Architectural Control Committee. Furthermore, no Owner may erect or maintain a satellite dish, solar collector panel or similar apparatus or equipment upon any Lot, except with the prior written consent of the Architectural Control Committee. Any satellite dish permitted to be placed outside the dwelling on a Lot by the Architectural Control Committee must not exceed one (1) meter in diameter.

Section 8.19. Exterior Finish. The exterior of each structure built upon any Lot shall be of at least seventy-five percent (75%) masonry construction. Brick, natural stone and stucco shall be considered to be masonry for purposes of this section. Combinations of materials and the proportion thereof shall aesthetically and architecturally blend with and enhance the Subdivision, and shall be subject to approval by the Architectural Control Committee.

Section 8.20. Chimneys. All fireplace flues, smoke stacks, and spark arresters shall be completely enclosed and concealed from public view in finished chimneys of materials architecturally compatible with the principal finish material of the exterior walls of the dwelling or otherwise approved by the Architectural Control Committee.

Section 8.21. Clothes Hanging Devices. Exterior clothes hanging devices shall not be permitted.

Section 8.22. Limitation on Square Feet. The minimum square footage area of Units erected on the Lots, exclusive of open porches and/or garages, shall be not less than 1,500 square feet.

Section 8.23. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot. No tank for the storage of oil or other

fluids may be maintained on any of the Lots above the surface of the ground.

Section 8.24. Garages. An enclosed garage able to accommodate at least two (2) automobiles must be constructed and maintained for each residence. The openings of such garages must be situated within the setback lines set out in Section 8.26 below. If the garage is detached from the house, it shall be set a minimum distance of five feet (5') from the rear Lot line. Garages may be used as a Builder's sales offices prior to permanent occupancy. Detached garages may not exceed a height of eighteen feet (18') at the highest ridge point of the roof measured from the existing ground unless prior written approval is obtained from the Architectural Control Committee. With the exception of periods when garages are used by a Builder as sales offices, all garages shall be maintained for the storage of automobiles, and no garage may be enclosed or otherwise used for habitation.

Section 8.25. Roof. Roofs shall consist of dimensional fiberglass asphalt or composition shingles of a weight equal to 240 pounds or more per square. Any other type of roof must be approved by the Architectural Control Committee. The Architectural Control Committee shall have the authority to approve roof treatments and materials when in its determination such treatments and materials, in the form utilized, will not be a detriment to the quality of the neighborhood.

Section 8.26. Setback Lines. All buildings or other structures (except fences), permanent or temporary, habitable or uninhabitable, must be constructed, placed and maintained in conformity with setback lines imposed in the recorded plat of the Subdivision. The eaves, steps and porches of buildings shall not be deemed to be a part of a building or structure for the purpose of this covenant.

Section 8.27. Athletic and Recreational Facilities. Except with the prior written approval of the Architectural Control Committee, outdoor athletic and recreational facilities such as basketball goals, swing sets and sport courts of either a permanent or temporary nature may be placed only between the rear property line of the Lot and the back of the Unit constructed thereon. Tennis court lighting and fencing shall be allowed only with the approval of the Architectural Control Committee.

Section 8.28. Water and Sewage Systems. No individual water supply system or sewage disposal system shall be permitted on any Lot, including, but not limited to, water wells, cesspools or septic tanks.

Section 8.29. Window Treatment. No aluminum foil, reflective film or similar treatment shall be placed on window or glass doors.

Section 8.30. Subdividing. No Lot shall be further divided or subdivided, and no easements or other interests therein less than the whole shall be conveyed by the Owner thereof, without the prior written approval of the Board; provided, however, that when Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot and convey any easement or other interest less than the whole, all without the approval of the Board.

Section 8.31. Construction of Improvements. No Improvements shall hereafter be constructed upon any of the Property without the prior written approval of the Architectural Control Committee. In the case of single-family residences to be constructed on a Lot, the Architectural Control Committee may limit its review to a review of a typical floor plan for the proposed residence, and upon the Architectural Control Committee's approval of such floor plan, residences may be constructed consistent with the approved floor plan without the requirement of further review or approval by the Committee, anything herein to the contrary notwithstanding.

Section 8.32. Repair of Buildings. All Improvements upon any of the Property shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner thereof.

Section 8.33. Hazardous Activities. No activities shall be conducted on the Property and no Improvements shall be constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged upon the Property, and no open fires shall be lighted or permitted except within safe and well-designed interior fireplaces or within barbecue units while attended and in use for cooking purposes.

Section 8.34. Composite Building Site. Any Owner of one or more adjoining Lots may consolidate such Lots into one single-

family residence building site, and may place or construct improvements on such site with the prior written approval of the Architectural Control Committee. In cases of such consolidation of Lots, setback lines shall be measured from the two side Lot lines existing after consolidation, rather than from the Lot lines shown on the Plat. The Owner may not thereafter resubdivide the consolidated Lots without the prior written approval of the Board.

Section 8.35. Maintenance. Each Owner shall maintain his or her Lot and all structures, parking areas, improvements, lawns, trees, landscaping, driveways, sidewalks and lighting located thereon in a neat, attractive and well-maintained condition. In addition to any other enforcement rights and remedies, if an Owner fails to properly perform such maintenance responsibilities, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against such Lot and the Owner of such Lot in accordance with Sections 2.4, 2.5 and 11.1 hereof.

Section 8.36. Trees. For purposes of this Declaration, "existing trees" shall be deemed to be trees of 3" caliper and above measure four and one-half (4.5) feet above the ground. During construction of improvements on a Lot, existing trees shall be preserved and protected to the extent reasonable for the intended development. Relief from protection of existing trees shall be at the discretion of the Architectural Control Committee. At such time as a Unit is constructed on a Lot, at least one (1) hardwood shade tree shall be located in the front yard of such Lot, which tree shall be no smaller in size than 3" caliper measured four and one-half (4.5) feet above grade.

#### ARTICLE IX ARCHITECTURAL CONTROL COMMITTEE

Section 9.1. Membership. The Architectural Control Committee shall consist of not more than three (3) voting members (the "Voting Members").

Section 9.2. Declarant's Rights of Appointment. Until the earlier of (i) December 31, 2015, or (ii) the date when the Class B membership shall cease, Declarant shall have the right to appoint and remove all members of the Architectural Control Committee. Declarant may delegate in whole or in part its right to appoint and

remove members of the Architectural Control Committee to the Board by written instrument.

Section 9.3. Action by Architectural Control Committee. Items presented to the Architectural Control Committee shall be decided by a majority vote of the Voting Members. The Architectural Control Committee may appoint an agent to act on behalf of the Architectural Control Committee, and the Architectural Control Committee may delegate any duties, powers and/or functions to the agent. Any such appointment and delegation shall be in writing.

Section 9.4. Term. Each Voting Member shall hold office until such time as he or she has resigned or has been removed or his or her successor has been appointed, as provided herein.

Section 9.5. Adoption of Rules. The Architectural Control Committee may adopt such procedural and substantive rules, not in conflict with this Declaration, as it may deem necessary or proper for the performance of its duties, including but not limited to a building code, a fire code, a housing code, architectural guidelines, landscaping guidelines, and other similar codes or guidelines as it may deem necessary and desirable.

Section 9.6. Review of Proposed Construction. The Architectural Control Committee shall have the right whenever its approval is required under this Declaration to consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts and information which in its sole discretion are relevant. Except as otherwise specifically provided herein, prior to the commencement of any construction of any Improvement on the Property or any portion thereof, the Plans and Specifications therefor shall be submitted to the Architectural Control Committee, and construction thereof may not commence unless and until the Architectural Control Committee has approved such Plans and Specifications in writing. Upon written request, the Architectural Control Committee may waive the requirement of such plans for any Lot if the Builder uses plans previously approved by the Architectural Control Committee for another Lot. There shall be no material revisions made to the approved plans without resubmittal to and approval by the Architectural Control Committee of the revised plans. The Architectural Control Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration, and

perform such other duties assigned to it by this Declaration or from time to time assigned to it by the Board, including the inspection of construction in progress to assure its conformance with Plans and Specifications approved by the Architectural Control Committee. The Architectural Control Committee may postpone review of any Plans and Specifications submitted for approval pending its receipt of any information or document deemed necessary by it. The Architectural Control Committee shall have the authority to disapprove any proposed Improvement based upon this Declaration, and the decision of the Architectural Control Committee shall be final and binding so long as it is made in good faith. The Architectural Control Committee shall not be responsible for reviewing any proposed Improvement, nor shall its approval of any Plans or Specifications be deemed approval thereof, from the standpoint of structural safety, engineering soundness, or conformance with building or other codes.

Section 9.7. Variance. The Architectural Control Committee may grant variances from compliance with any of the provisions of this Declaration when, in its opinion and in its sole and absolute discretion, such variance will not impair or detract from the high quality development of the Property and/or is justified due to aesthetic considerations or unusual circumstances. All variances must be evidenced by a written instrument in recordable form, and must be signed by a majority of the Voting Members. The granting of such variance shall not operate to waive or amend any of the terms and provisions of this Declaration applicable to the Lots for any purpose except as to the particular property and the particular matter covered by the variance, and such variance shall not be considered to establish a precedent or future waiver, modification or amendment of the terms and provisions hereof.

Section 9.8. Actions of the Architectural Control Committee. The Architectural Control Committee may, by resolution unanimously adopted in writing, designate any of its members or an agent acting on its behalf to take any action or perform any duties for and on behalf of the Architectural Control Committee. In the absence of such designation, the vote of a majority of all Voting Members, which may be taken without a meeting, shall constitute an act of the Architectural Control Committee.

Section 9.9. No Waiver of Future Approvals. The approval or consent of the Architectural Control Committee to any Plans and

Specifications shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans and Specifications or other matter whatever subsequently or additionally submitted for approval or consent by the same or a different Person.

Section 9.10. Work in Progress. At its option, the Architectural Control Committee may inspect any work in progress to insure compliance with approved Plans and Specifications.

Section 9.11. Nonliability of Architectural Control Committee Members. Neither the Architectural Control Committee nor any member thereof, nor the Board nor any member thereof, shall be liable to the Association or to any Owner or to any other Person for any loss, damage or injury arising out of or in any way connected with the performance of the Architectural Control Committee's or the Board's respective duties under this Declaration, unless due to the willful misconduct or bad faith of such Person. Neither the Architectural Control Committee nor any member thereof shall be liable to any Owner due to the construction of any Improvement within the Property.

Section 9.12. Address. Plans and Specifications shall be submitted to the Architectural Control Committee of Ten Oaks Homeowners Association, Inc., at 4265 Kellway Circle, Addison, Texas 75001 (Attn: D.O. Tomlin, III), or such other address as may be designated by Declarant (or the Board if Declarant has delegated such designation right to the Board) from time to time.

#### ARTICLE X ANNEXATION

Section 10.1. Annexation by Declarant. At any time during the initial term of this Declaration, Declarant may, at its sole option, annex additional property to this Declaration to be subject to the terms hereof to the same extent as if originally included herein and subject to such other terms, covenants, conditions, easements and restrictions as may be imposed thereon by Declarant. Annexation shall be evidenced by a written Declaration of Annexation executed by Declarant setting forth the legal description of the property being annexed and the restrictive covenants to be applied to such annexed property.

Section 10.2. Annexation by Action of Members. At any time the Board of Directors of the Association may request approval of the membership for the annexation of additional property into the Association to be subject to all of the terms of this Declaration to the same extent as if originally included herein. No such annexation shall be effective unless approved in writing by members entitled to cast two-thirds (2/3) of the votes in each class of membership. Any property that is contiguous to existing property to this Declaration may be annexed hereto according to the foregoing requirements, provided however, that no such annexation shall be effective without the consent and joinder of the owners of the property to be annexed. Such annexation must be evidenced by a Declaration of Annexation as set forth in Section 10.1 above executed by the parties herein described.

Section 10.3. No Duty to Annex. Nothing herein contained shall establish any duty or obligation on the part of Declarant or any member to annex any property to this Declaration and no owner of the property excluded from this Declaration shall have any right to have such property annexed thereto.

Section 10.4. Effect of Annexation on Class B Membership. If Class B Membership has previously lapsed but annexation of additional property restores the Class B Membership, such Class B Membership shall be reinstated until it expires pursuant to the terms of Section 2.6.

ARTICLE XI  
GENERAL

Section 11.1. Remedies.

(a) In the event of any default by any Owner under the provisions of the Declaration, Bylaws or rules and regulations of the Association, the Association and any Owner shall have each and all of the rights and remedies which may be provided for in this Declaration, the Bylaws and said rules and regulations, and those which may be available at law or in equity, and may prosecute any action or other proceedings against such defaulting Owner and/or others for enforcement of any lien, statutory or otherwise, including foreclosure of such lien and the appointment of a receiver for the Lot and ownership interest of such Owner, or for damages or injunction, or specific performance, or for judgment for

the payment of the money and collection thereof, or for any combination of the remedies, or for any other relief. No remedies herein provided or available at law or in equity shall be deemed mutually exclusive of any other such remedy. All expenses of the Association in connection with any such actions or proceedings, including court costs and attorney's fees and other fees and expenses, and all damages liquidated or otherwise, together with interest thereon at the maximum rate permitted by law but, with reference to any Lots financed by FHA insured loans, not in excess of the maximum rate of FHA loans at the time of delinquency, from the due date until paid, shall be charged to and assessed against such defaulting Owner, and shall be added to and deemed part of respective maintenance assessment (to the same extent as the lien provided herein for unpaid assessments), upon the Lot and upon all of his additions and improvements thereto, and upon all of his personal property upon the Lot. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association or any Owner.

(b) In addition to such other rights as are specifically granted under this Declaration, the Board shall have the power to impose reasonable fines, which shall constitute a lien upon the Lot of the violator, and to suspend an Owner's right to vote or any person's right to use the Common Areas for violation of any duty, restriction or covenant imposed under this Declaration or any rules or regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Board to limit ingress and egress to or from a Lot. In addition, the Board may suspend any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than 30 days delinquent in paying any assessment or other charges owed to the Association. In the event that any occupant, guest or invitee of a Lot violates this Declaration or a rule or regulation imposed hereunder, and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of this Declaration or any rule or regulation imposed hereunder shall not be deemed a waiver of the right of the Board to do so thereafter. Prior to the imposition of any fine hereunder, the Board or its delegate shall serve the alleged violator with written notice describing (1) the nature of the alleged violation, (2) the proposed fine to be imposed, and (3) a period of not less

than 10 days within which the alleged violator may present a written request for a hearing to the Board; provided the Board may, but shall not be obligated to, suspend any proposed fine if the violation is cured within the 10 day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Owner. If a hearing is requested within the allotted 10 day period, the hearing shall be held before the Board or its delegate in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. The decision of the Board or its delegate at such hearing shall be final.

Section 11.2. Term and Amendments. The covenants and restrictions of this Declaration shall run with and bind the land for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless seventy-five percent (75%) of the votes outstanding shall have voted to terminate the covenants and restrictions of this Declaration upon the expiration of the initial thirty (30) year period or any extension thereof, which termination shall be by written instrument signed by seventy-five percent (75%) of the Owners and properly recorded in Denton County, Texas; provided, however, during any period in which Declarant owns any portion of the Property, any amendment to or termination of this Declaration shall additionally require the prior written consent of Declarant. Furthermore, during any period in which Declarant owns any portion of the Property, Declarant may amend this Declaration without the approval of any Owner or mortgagee provided the amendment does not materially alter or change any Owner's right to the use and enjoyment of such Owner's Lot and such amendment does not materially affect the title to any Lot. Except as provided in the immediately preceding sentence, all other amendments to this Declaration shall require the vote or the written consent of at least sixty-seven percent (67%) of the outstanding votes of the Association and, if the Class B membership has not theretofore terminated, the vote or written consent of Declarant. Any amendment to this Declaration must be recorded and shall contain a certification by the President and Secretary of the Association that such amendment has been correctly adopted in accordance with the provisions of this Declaration. Declarant further reserves, prior to the closing of the sales of all of the Property, all rights which may be necessary to deal with the

Property, including the right to vacate, amend, or modify the plat of subdivision.

Section 11.3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain, in full force and effect.

Section 11.4. Rights and Obligations. The provisions of this Declaration and the Articles of Incorporation and Bylaws and the rights and obligations established thereby shall be deemed to be covenants running with the land and shall inure to the benefit of, and be binding upon, each and all of the Owners and their respective heirs, representatives, successors, assigns, purchasers, grantees and mortgagees. By the recording or the acceptance of a deed conveying a Lot of any ownership interest in the Lot whatsoever, the person to whom such Lot or interest is conveyed shall be deemed to accept and agree to be bound by and subject to all of the provisions of this Declaration and the Articles of Incorporation and Bylaws, whether or not mention thereof is made in said deed.

Section 11.5. Miscellaneous Provisions. Any provisions of this Declaration or of the Articles of Incorporation and Bylaws to the contrary notwithstanding, the following provisions shall control:

(a) The following actions will require notice to all institutional holders of first mortgage liens: (1) abandonment or termination of the Association; or (2) material amendment to this Declaration.

(b) Upon the request of any first mortgagee of a dwelling on a Lot, the Association shall furnish to such mortgagee a written notice of any default by the Owner of such dwelling in the performance of such Owner's obligations under this Declaration or the Bylaws or Association rules and regulations which is not cured within thirty (30) days. Any first mortgagee of a dwelling who comes into possession of such dwelling pursuant to the remedies provided in the mortgage, a foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure, shall take such property free of any claims for unpaid assessments or charges in favor of

the Association against the mortgaged dwelling which accrued prior to the time such holder comes into possession of the dwelling.

(c) Unless at least seventy-five percent (75%) of the first mortgagees (based upon one vote for each mortgage) have given their prior written approval, neither the Association nor the Owners shall be entitled to:

- (i) by act or omission seek to abandon, partition, encumber, or transfer the Common Areas, if any, or any portion thereof of interest therein;

(The granting of easements for public utilities or other public purposes consistent with the intended use of such property shall not be deemed a transfer within the meaning of this clause.)

- (ii) substantially change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner by the Association;
- (iii) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance of the dwellings or maintenance of the dwellings or Lots;
- (iv) fail to maintain liability and extended coverage insurance on insurable property comprising a part of the Common Areas on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement costs).

(d) All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa.

Section 11.6. 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.



# EXHIBIT A

## PROPERTY DESCRIPTION

BEING a tract of land in the James T. Roberts Survey, Abstract No. 777, situated in the City of Allen, Collin County, Texas, and being that same called 10.7696 acre tract conveyed to Donald Hodges by deed recorded in Volume 1683, Page 859 and that same called 13.207 acre tract and 20.0 acre tract conveyed to B.M. Grantland by deeds recorded in Volume 2165, Page 704 and Volume 2165, Page 707, respectively, of the Deed Records of Collin County, Texas, and being more particularly described as follows:

BEGINNING at an iron rod found at the Northwest corner of that certain 1.0 acre tract of land conveyed to Eugene Holmes and wife, Oneta Holmes by deed recorded in Volume 668, Page 951 of the Deed Records of Collin County, Texas, said point being the most Westerly Southwest corner of said 20.0 acre tract, and said point also being on the East line of Allen North Addition Phase Three, an addition to the City of Allen, Texas as recorded in Cabinet J, Page 534 of the Plat Records of Collin County, Texas;

THENCE North 0°46'38" East along the East line of Allen North Addition Phase Three, passing its Northeast corner and continuing a total distance of 1238.01 feet to an iron rod found at a fence corner at the Northwest corner of said 13.207 acre tract, said point being on the South line of Buckingham Polo Estates (unrecorded);

THENCE North 89°36'45" East along the general line of an old wire fence and tree line along the North line of said 10.7696 acre tract, 1322.65 feet to an iron rod found at the Northeast corner of said 10.7696 acre tract and an ell corner of that certain called 376.464 acre tract conveyed to Malone Road (Dallas) Investors, L.P. by deed recorded in File No. 94-0041166 of the Real Property Records of Collin County, Texas;

THENCE South 0°04'52" East along the East line of said 10.7696 acre tract and a West line of said 376.464 acre tract, 1252.32 feet to the Southeast corner of said 10.7696 acre tract and the Northeast corner of that certain called 1.0 acre tract conveyed to David R. Wortham and wife, Jolene Wortham by deed recorded in Volume 3787, Page 164 of the Deed Records of Collin County, Texas;

THENCE South 89°51'39" West along the South line of said 10.7696 acre tract and the North line of said 1.0 acre tract, passing an iron rod found at the Northwest corner of said 1.0 acre tract and continuing along the North line of that certain tract conveyed to Floyd E. Bedell, Jr. by deed recorded in Volume 3105, Page 564 of the Deed Records of Collin County, Texas, passing an iron rod found at its Northwest corner, and continuing a total distance of 374.55 feet to an iron rod found at the Southwest corner of the 10.7696 acre tract, said point being on the East line of said 20.0 acre tract;

THENCE South 1°14'37" West along the West line of said Enloe tract and the East line of said 20.0 acre tract, 302.63 feet to an iron rod set on the North right-of-way line of Exchange Parkway (52.4 feet wide) at the Southeast corner of said 20.0 acre tract;

THENCE WEST along said North right-of-way line of Exchange Parkway, 799.26 feet to an iron rod set at the most Southerly Southwest corner of said 20.0 acre tract;

THENCE North 0°46'38" East along a West line of said 20.0 acre tract and the East line of the above mentioned 1.0 acre tract, 264.0 feet to an iron rod found at an ell corner of said 20.0 acre tract and the Northeast corner of said 1.0 acre tract;

THENCE WEST along the North line of said 1.0 acre tract and a South line of said 20.0 acre tract, 165.0 feet to the PLACE OF BEGINNING, and containing 43.8855 acres of land, more or less.