**DECLARATION OF RESTRICTIVE COVENANTS**

**EL DORADO BAY, EL DORADO SUBDIVISION AND EL DORADO BEACH**

**SUBDIVISIONS**

STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS
COUNTY OF FRANKLIN §

This DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") is made by El Dorado Property Owners Association, Inc. (Declarant).

Deleted: Bay

Declarant and its members are the sole owners of all portions of the real property located in Franklin County, Texas, described as and constituting any part of El Dorado Bay Subdivisions (Bay, Subdivision and Beach) as recorded in the City of Mount Vernon, Franklin County, Texas.

Declarant wants to impose on the real property certain protective covenants, conditions, and restrictions, as described below, according to an established general plan for the improvement and development of the Subdivision.

It is declared (a) that all of the Property (defined below) will be held, sold, conveyed, and occupied subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which will run with the Property and will be binding on all parties having any right, title, or interest in or to the Property or any part of it, their heirs, successors, and assigns, and will inure to the benefit of each owner, and (b) that each contract or deed that may later be executed with regard to the Property or any portion of it will conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions, and restrictions regardless of whether they are set forth or referred to in the contract or deed.

Heretofore, on July 2, 1973, John Preston Travis and Company d/b/a/ John Preston Travis, III, Lessee/Developer of those certain real properties within the County of Franklin, State of Texas, more particularly described as follows, to-wit:

El Dorado Subdivision
Volume D, Page 150
Plat Records, Franklin County
Texas

El Dorado Bay Subdivision
Volume D, Page 154
Plat Records, Franklin County
Texas ,

El Dorado Beach Subdivision
Volume D, Page 152
Plat Records, Franklin County
Texas

DRAFT

established a general plan for the improvement and development of such premises, establishing covenants, conditions, reservations and restrictions having application to each and every lot and portions of such lots in each of the three said subdivisions and subject to which covenants, conditions, reservations and restrictions each and every conveyance of each and every lot and portions of such lots in each and every of three subdivisions has been subject to, which covenants, conditions, reservations and restrictions are recorded in Volume 115 at Pages 337, et seq of the Deed Records of Franklin County, Texas. Additionally, each and every such conveyance has been subject to all of the terms and provisions of those certain Lease Agreements dated December 4, 1972, recorded in Volume 113, Pages 360, 347 and 375 of the Deed Records of Franklin County, Texas.

Then whereas, Theodore C. Burgdorf became the successor developer and lessee in place and instead of John Preston Travis, III, and now whereas the El Dorado Property Owners Association, Inc. has assumed responsibility from Theodore C. Burgdorf for roads, tennis courts, trailer yard, and all other common areas, the undersigned Declarants are lessees of tracts of land which are a part of the said three subdivision land development, and whereas said Declarants desire to place on record covenants, conditions, reservations and restrictions having application to the three said subdivisions, in general harmony with and supplemental to those previously placed of record by John P. Travis, III, it being the desire and intention of all of the parties hereto to restrict said land according to a common plan as to use and permissible construction, so that all of said lands shall be benefitted and each present lessee, future lessee and successive lessee of all or a part of said lands shall be benefitted by the preservation of the value and character of the said lands.

Previous amendments to the El Dorado Bay Subdivision Declaration of Restrictive Covenants have been recorded in the official records of Franklin County:

1. Declaration of Restrictive Covenants, Instrument 1330, dated 09/01/1979, filed 01/08/1980.
2. Declaration of Restrictive Covenants, Instrument 53609, dated 04/22/1993, filed 05/06/1993.
3. Declaration of Restrictive Covenants, Instrument 113824, dated 08/13/2007, filed 10/03/2007.

**Comment [MJS1]:** Added history of previous documents for reference.

## ARTICLE 1
## DEFINITIONS

Unless the context specifies or requires otherwise, the following words and phrases when used in this Declaration have the following meanings:

**1.01. Architectural Control Committee (ACC).** "Architectural Control Committee" means the committee created according to these restrictions to review and approve plans for the construction of improvements on the Property.

**1.02. Architectural Control Committee Rules.** "Architectural Control Committee Rules" means the rules and regulations adopted by the Architectural Control Committee, as amended from time to time.

**1.03. Assessment.** "Assessment" or "Assessments" means assessment(s) and/or special charges levied by the Association under the terms and provisions of this Declaration.

**1.04. Association.** "Association" means and refers to El Dorado Property Owners Association, Inc., a Texas nonprofit corporation.

**1.05. Association Rules.** "Association Rules" means the rules and regulations adopted by the Board, as amended from time to time.

**1.06. Board.** "Board" means the Board of Directors of the Association.

**1.07. Builder.** "Builder" means any professional home builder that purchases Lots within the Subdivision solely for the purpose of constructing residential homes on the Lots for sale to third-party home buyers.

**1.08. By-laws.** "By-laws" means the By-laws of the Association, which may be adopted by the Board, as amended from time to time.

**1.09. Certificate of Formation.** "Certificate of Formation" means the Certificate of Formation of the Association that may be filed in the office of the Secretary of State of the State of Texas, if the Association is formed, and as amended from time to time.

**1.10. City.** "City" means the City of Mount Vernon, Texas.

**1.11. Common Area and Facilities.** "Common Area and Facilities" means any Lots and other properties designated by Declarant and conveyed to the Association, if formed, along with any exclusive easements and other areas granted to Declarant or the Association and maintained for the common benefit of the Owners. Common Area and Facilities may be designated by Declarant and dedicated or otherwise conveyed to the Association, if formed, the Owners, or to any public agency, authority, or utility from time to time and at any time. If and at the time Declarant annexes additional real property to the Property in accordance with Section 2.02, additional Common Area and Facilities may be designated.

**1.12. Declarant.** "Declarant" means El Dorado Bay Property Owners Association, Inc., its predecessors, its duly authorized representatives or their successors or assigns. Any assignment of the rights of Declarant must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignment of the rights of Declarant will not be sufficient to constitute an assignment of the rights of Declarant under this Declaration.

**1.13. Declaration.** "Declaration" means this instrument as amended from time

DRAFT

to time.

**1.14. Developer.** "Developer" means and refers to Theodore C. Burgdorf.

**1.15. Dues.** "Dues" means assessments described in **Article 8**.

**1.16. Improvement.** "Improvement" means every structure and all appurtenances to structures 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, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers, and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

**1.17. Living Unit.** "Living Unit" means and refers to a single-family residence and the attached garage serving it.

**1.18. Lot.** "Lot" or "Lots" means any parcel or parcels of land within the Property shown as a subdivided lot on any Plat of the Subdivision, together with all Improvements located on the parcel or parcels.

**1.19. Masonry.** "Masonry" means stucco, stone (natural, precast, or manufactured), and brick, but excluding fiber-cement siding, stone veneer, or other siding materials.

**1.20. Member.** "Member" or "Members" means any Person(s) holding membership rights in the Association.

**1.21. Mortgage.** "Mortgage" or "Mortgages" means any mortgage(s) or deed(s) of trust covering any portion of the Property given to secure the payment of a debt.

**1.22. Mortgagee.** "Mortgagee" or "Mortgagees" means the holder or holders of any Mortgage or Mortgages.

**1.23. Owner.** "Owner" or "Owners" means the Person(s), including Declarant, holding a leasehold interest in any portion of the Property, but does not include the Mortgagee of a Mortgage, unless the Mortgagee acquires title to the property by foreclosure or otherwise.

**1.24. Person.** "Person" or "Persons" means any individual(s), entity, or entities having the legal right to hold title to real property.

**1.25. Plans and Specifications.** "Plans and Specifications" means any and all 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,

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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.

**1.26.** **Plat.** "Plat" or "Plats" means the subdivision plat of El Dorado Bay Subdivisions (Bay, Subdivision and Beach), recorded in Volume 115 at Pages 337, et seq of the Deed Records of Franklin County, Texas. Additionally, each and every such conveyance has been subject to all of the terms and provisions of those certain Lease Agreements dated December 4, 1972, recorded in Volume 113, Pages 360, 347 and 375 of the Deed Records of Franklin County, Texas, as amended from time to time.

**1.27.** **POA.** "POA" means the El Dorado Property Owners Association, Inc.

**1.28.** **Property.** "Property" means all of the real property now or later constituting any portion, phase, or section of the Subdivision.

**1.29.** **Restrictions.** "Restrictions" means this Declaration, as amended from time to time, together with the Architectural Control Committee Rules, the Association Rules, the Certificate of Formation, and By-laws.

**1.30.** **Subdivision.** "Subdivision" means El Dorado Bay Subdivisions (Bay, Subdivision and Beach), recorded in Volume 115 at Pages 337, et seq of the Deed Records of Franklin County, Texas. Additionally, each and every such conveyance has been subject to all of the terms and provisions of those certain Lease Agreements dated December 4, 1972, recorded in Volume 113, Pages 360, 347 and 375 of the Deed Records of Franklin County, Texas, according to the Plats.

## ARTICLE 2
## DEVELOPMENT OF THE PROPERTY

**2.01.** **Development by Declarant.** Declarant may divide or subdivide any Property that it may now own or acquire in the future.

**2.02.** **Addition of Land.** Declarant may, at any time and from time to time, add land to the Property, and on such addition, this Declaration and the covenants, conditions, restrictions, and obligations set forth in it will apply to the added land, and the rights, privileges, duties, and liabilities of the Persons subject to this Declaration will be the same with respect to the added land as with respect to the lands originally covered by this Declaration. In order to add lands to the Property under this Declaration, Declarant will be required only to record in the Official Records of Real Property of Franklin County, Texas, a notice of addition of land containing the following provisions:

(a) A reference to this Declaration, which must include the book and page numbers of the Official Records of Real Property of Franklin County, Texas, in which this Declaration is recorded.

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(b) A statement that the provisions of this Declaration will apply to the added land.

(c) A legal description of the added land.

## ARTICLE 3
## GENERAL RESTRICTIONS

All of the Property will be owned, held, encumbered, leased, used, occupied, and enjoyed subject to the following limitations and restrictions:

**3.01. Subdividing.** No Lot will be further divided or subdivided, nor may any easements on or other interests relating to a Lot less than the whole be conveyed by the Owner of the Lot without the prior written approval of the POA, except as provided herein; however, when Declarant is the Owner, Declarant may further divide and subdivide any Lot and convey any easements or other interests less than the whole. Individual lots may be divided between abutting owners and each owner's assessment shall be based on his pro-rata ownership of said lot. Nothing herein contained shall prohibit the construction of a single residence on two or more lots, however, such lots shall still be considered as individual lots and assessed accordingly.

**3.02. Insurance Rates.** Nothing will be done or kept on the Property that would increase the rate of insurance or cause the cancellation of insurance on any Lot or any of the Improvements located on any Lot.

**3.03. Mining and Drilling.** No portion of the Property will be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth.

**3.04. Noise and Nuisances.** No noise or other nuisance will be permitted to exist or operate on any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its occupants. No exterior lighting of any sort will be installed or maintained on a Lot where the light source is offensive or a nuisance to neighboring property (except reasonable security or landscape lighting that has the approval of the Architectural Control Committee). No vehicle, including specifically motorcycles, motorbikes, motor-scooters, minibikes, mopeds without proper and approved mufflers and flame arresters will ever be permitted in, on or about the development. All off the road, untagged and unlicensed vehicles except motorized golf carts are expressly prohibited. Motorized golf carts must be operated by a licensed driver. Loud and offensive noises, including those made by such vehicles, are declared to be an annoyance, nuisance and hazard to the health and well being of the neighborhood and are expressly forbidden. This provision shall not apply to vehicles required for property maintenance and construction purposes.

**3.05. Animals – Household Pets.** No animals, including pigs, hogs, swine, poultry, fowl, wild animals, horses, cattle, sheep, goats, or any other type of animal

not considered to be a domestic household pet within the ordinary meaning and interpretation of these words may be kept, maintained, or cared for on the Property. Any dog that has been determined to be "dangerous" by the City or any other political subdivision, animal-control authority, or governmental agency, will never be maintained, kept, or cared for on the Property. No Owner may keep on the Owner's Lot on an on-going basis more than a combined total of five (5) cats and dogs. No animal will be allowed to make an unreasonable amount of noise, or to become a nuisance, and no domestic pets will be allowed on the Property other than on the Lot of its Owner unless confined to a leash. No animal may be stabled, maintained, kept, cared for, or boarded for hire or remuneration on the Property, and no kennels or breeding operation will be allowed. No animal will be allowed to run at large, and all animals must be kept within enclosed areas that must be clean, sanitary, and reasonably free of refuse, insects, and waste at all times. An enclosed area must be constructed in accordance with plans approved by the Architectural Control Committee, must be of reasonable design and construction to adequately contain animals in accordance with the provisions of this Declaration, and must be screened so as not to be visible from any other portion of the Property.

**3.06. Rubbish and Debris.** No rubbish or debris of any kind will be placed or permitted to accumulate on the Property, and no odors will be permitted to arise from it so as to make the Property or any portion of it unsanitary, unsightly, offensive, or detrimental to any other property or to its occupants. Refuse, garbage, and trash must be kept at all times in covered containers, and the containers must be kept within enclosed structures or appropriately screened from view. POA shall have the right to direct entry upon any lot for the removal of weeds, refuse piles or other unsightly objects or materials at the expense of the Owner, and any such entry shall not be deemed a trespass. In the event a public or community sewer system becomes available, POA shall have the power and authority to require connection of all residences of such system and to prohibit further use of septic tank systems.

**3.07. Maintenance.** In the event an Owner of any lot shall fail to maintain the premises and the improvements situated thereon in a neat and orderly manner, the Architectural Control Committee shall have the right, through its agents or employees, to enter upon said lot and to repair, maintain, and restore the lot and exterior of the buildings and any other improvements erected thereon, all at the expense of the Owner.

**3.08. Antennas.** Up to two (2) television satellite dish antennas may be mounted on the dwelling structure. No other exterior radio or television antenna or aerial or satellite dish that is visible from any adjacent street within the Subdivision or the lake will be erected or maintained on any Lot without first obtaining the Architectural Control Committee's written consent.

**3.09. Signs.** No sign of any kind will be displayed to the public view on any Lot without the prior written approval of the Architectural Committee, except for (a) signs that are part of Declarant's overall marketing or construction plans or activities for the Property, (b) two (2) signs (one roadside and one lakeside) no more than five (5)

DRAFT

square feet advertising any property within the Subdivision for sale or rent, and (c) one (1) ground-mounted sign no more than four (4) feet by six (6) feet, advertising no more than one (1) political candidate or ballot item for election. All merchandising, advertising, and sales programming is subject to the approval of the Architectural Control Committee.

**Deleted:** No billboards, signboards, or advertising displays of any kind shall be installed, maintained or permitted to remain on any residential lot, except that two signs (one at the road and one at the lake) containing not more than five (5) square feet of surface area may be displayed in connection with the sale of an improved or unimproved lot.

**3.10. Water and Other Tanks.** The Architectural Control Committee has the right to approve the location of any tank used or proposed in connection with a single-family residential structure, including tanks for the storage of fuel, water, oil, or LPG, and including swimming-pool filter tanks. No elevated tanks of any kind will be erected, placed, or permitted on any Lot. All tanks must be screened so as not to be visible from any other part of the Property. No individual water-supply systems will be permitted on any Lot other than lake-fed irrigation systems, including but not limited to water wells, cesspools, or water-collection tanks; however, rain barrels and rain harvesting devices will be permitted subject to the right of the Architectural Control Committee to approve the location, size, type, and shielding of, and the materials used in the construction of, any such rain barrels, rain harvesting devices, and related appurtenances.

**3.11. Freestanding Structures.** No freestanding buildings of any kind (other than ACC approved boat houses) shall be permitted, including, but not limited to, a trailer, tent, shack, garage, barn, tool shed or other outbuilding. Facilities used in connection with any sales or construction operations shall be subject to the approval of the Architectural Control Committee.

**Deleted:** Temporary

**3.12. Unused Vehicles.** No unused automobiles or vehicles of any kind, except as hereinafter provided, shall be stored or parked on any lot, except in a closed garage, or on any residential street. "Unused vehicle" shall be defined as any vehicle which has not been operated for a period of thirty (30) days or longer. Streets are not to be used for private parking except by visitors.

**3.13. Mobile Homes, Travel Trailers, and Recreational Vehicles.** No house trailer, mobile home, camper, recreational vehicle, boat, boat trailer or similar wheeled vehicle shall be stored or parked on any street or lot for more than 10 days in any 30 day period. Boats and boat trailers are to be stored or parked in an area on lots 40 and/or 41 of El Dorado Bay Subdivision, as designated and provided by the POA.

**Deleted:** 7

**3.14 Commercial or Transport Vehicles.** No commercial-type vehicle and no trucks shall be stored or parked on any lot except in a closed garage, nor parked on any residential street except while engaged in delivery to or transport from a residence. For the purpose of this covenant, a 1-ton or smaller vehicle (commonly known as a pick-up truck) shall not be deemed to be a commercial vehicle or truck. No vehicle of any size which normally transports flammable or explosive cargo may be kept in the subdivision at any time.

**Deleted:** 3/4

**3.15. Compliance with the Restrictions.** Each Owner must comply strictly

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with the provisions of the Restrictions as amended from time to time. Failure to comply with any of the Restrictions constitutes a violation of this Declaration and gives rise to a cause of action to recover amounts due for damages or injunctive relief or both, maintainable by the Declarant, the Architectural Control Committee, the Board on behalf of the Association, an aggrieved Owner, or, if applicable, any Municipal Utility District having jurisdiction over the Property.

**3.16. Liability of Owners for Damage to Common Area and Facilities.** No Owner will in any way alter, modify, add to, or otherwise perform any work on the Common Area and Facilities without the prior written approval of the Board. Each Owner is liable to the Declarant, the Association, the Owners, or any public agency, authority, or utility if the Common Area and Facilities have been dedicated or otherwise conveyed to any of these parties, for any and all damages to (a) the Common Area and Facilities or (b) any Improvements constructed on any Lot, the maintenance of which has been assumed by any of these parties, which damages were caused by the neglect, misuse, or negligence of an Owner or the Owner's family, or by any tenant or other occupant of the Owner's Lot, or any guest or invitee of the Owner. The full cost of all repairs of the damage will be an Assessment against the Owner's Lot, secured by a lien against the Owner's Lot and collectable in the same manner as provided for in Section 8.06, including but not limited to foreclosure of the lien.

**3.17. Basketball Goals – Permanent and Portable.** Permanent basketball goals are allowed, but must be approved by the Architectural Control Committee before installation. The permanent basketball goal must be properly maintained and painted, with nets kept in good repair. Portable goals may be used, but they must be stored in an enclosed structure or screened from view at all times when not in use.

**3.18. Open Fires.** Open fires shall be permitted if conducted in a safe and supervised manner.

**3.19. No Warranty of Enforceability.** While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this Article or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any restrictive covenants, terms, or provisions. Any Owner acquiring a Lot in reliance on one or more of the restrictive covenants, terms, or provisions assumes all risks of their validity and enforceability and, by acquiring the Lot, agrees to hold Declarant harmless if they are held to be invalid or unenforceable.

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## ARTICLE 4
## USE AND CONSTRUCTION RESTRICTIONS

**4.01.** **Approval for Construction.** No Improvements will be constructed on any Lot without the prior written approval of the Architectural Control Committee.

**4.02.** **Use.** All lots in each of the three subdivisions, save only the following exceptions, shall be used for single family residential purposes only. The only permissible exception is as follows:

a. Four (4) or more acres from parts of lots 40 and 41 of El Dorado Bay Subdivision, to include the present tennis court and all acreage in lot 41 north of the present tennis court, is to be held and used by the Property Owners Association for the common use of all of the residents of the subdivisions and their guests as and for a tennis court, the parking of unused vehicles, trailers and any other use designated and determined by the Property Owners Association.

**4.03.** **Rentals.** The rental or lease of a residence, except on a long term basis of not less than six months, is expressly forbidden. When such an arrangement becomes necessary, it will be with the understanding that the homeowner will in no way abrogate his responsibility as herein defined, and that the tenant in possession will abide by these deed restrictions exactly as though he were the owner.

**4.04.** **Fences and Sightline Obstruction.** All fencing, including plantings that provide a visual barrier, must be approved by the Architectural Control Committee. Only fencing or shrubbery that does not obscure the open wooded setting of the development shall be considered. No hedge, shrub, or tree planting which obstructs sightline and elevations between two and six feet above the roadway shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and the line connecting them at points twenty-five (25) feet from the intersection of the street lines or, in case of a rounded property corner, from the intersection of the street property lines extended. The same sightline limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway. No trees shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at a sufficient height to prevent obstruction of such sightlines.

**4.05.** **Architectural Styling.** The objective of the POA is to maintain and promote architectural styling that is compatible with the country, wooded setting of the El Dorado Bay Subdivisions. Wood or wood-like materials and stone will be preferred. Brick shall be specifically excluded. The roof on any structure (dwelling, boat house, et al.) erected upon any lot shall be constructed of composition or other material that may be approved by the Architectural Control Committee. Only warm, earth-tone colors that blend into the wooded surroundings should be used on exterior surfaces. Building setback and site plan shall also be approved by the Architectural Control Committee. The Architectural Control Committee shall have

DRAFT

final authority as to exterior styling of all residences. Interiors of all houses shall be left entirely to the discretion of the owner.

**4.06. Alteration or Removal of Improvements.** Any construction, other than normal maintenance, that in any way alters the exterior appearance of any Improvement or the removal of any Improvement, will be performed only with the prior written approval of the Architectural Control Committee.

**4.07. Drainage.** There will be no interference with the established drainage patterns over any of the Property, except by Declarant or any Builder, unless adequate provision is made for proper drainage and the Architectural Control Committee approves the provision.

**4.08. Construction Activities.** This Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner (including Declarant) on any Lot within the Property. Specifically, no construction activities will be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, or similar activities, provided that the construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. If construction on any Lot does not conform to usual practices in the area as determined by the Architectural Control Committee in its sole good-faith judgment, the Architectural Control Committee will have the authority to seek an injunction to stop the construction. In addition, if during the course of construction on any Lot there is excessive accumulation of debris of any kind that would make the Lot or any portion of it unsanitary, unsightly, offensive, or detrimental to it or any other portion of the Property, then the Architectural Control Committee may contract for or cause such debris to be removed, and the Owner of the Lot will be liable for all expenses incurred in connection with removal.

Deleted: posting of signs,

**4.09 Garage Storage.** Any garage being used for storage shall be kept closed at all times except when in immediate use for ingress or egress. All garages shall have garage doors with automatic electric closers. No open carport shall have the storage doors open to street.

**4.10 Driveways.** All driveway locations shall be approved by the Architectural Control Committee. Lot owners shall install and provide culverts of 8" diameter in road drainage ditch (if one is present) where driveway access to lot is located, and shall keep said culvert open and clear of debris and dirt.

**4.11. Boat Houses.** No enclosed boat houses will be allowed. No boat houses or piers or docks will be allowed that obstruct any other sublease or lessee's view of the lake. No type of bulkhead will be built unless approval is granted by Architectural Control Committee.

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## ARTICLE 5
## COMMON AREA AND FACILITIES

**5.01.** **Common Area and Facilities.** No land within any Common Area and Facilities will be improved, used, or occupied, except in the manner approved by Declarant, in its sole and absolute discretion. This required approval will extend to the nature and type of use, occupancy, and improvement. Access to any Common Area and Facilities may be limited to Persons currently paying Assessments, fees, and other charges, or otherwise conditioned or restricted, or made available to non-owners, all on the terms and conditions determined by Declarant in its sole and absolute discretion.

**5.02.** **Maintenance.** Maintenance of any Common Area and Facilities will be the obligation of the Association and will be governed by Section 6.04, and Assessments may be levied on the Owners under Article 8. Under no circumstances will Declarant be liable to the Owners or any other Person for maintaining or failing to maintain the Common Area and Facilities.

**5.03.** **Condemnation.** If all or any part of the Common Area and Facilities is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary), Declarant, or the Association, if applicable, will be entitled to participate in the proceedings incident to the taking or threatened taking. The expense of participation in the proceedings by the Association will be a common expense to be paid out of Assessments. The Association is specifically authorized to obtain and to pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses, and other Persons as the Association, in its discretion, deems necessary or advisable to aid it in any matters relating to the proceedings. All damages or awards for any taking will be the property of Declarant, or, if applicable, deposited with the Association. The Association, if applicable, in addition to the general powers set forth in this Declaration, will have the sole authority to determine whether to contest or defend any proceedings, to make any settlement with respect to any proceedings, or to convey the property to the condemning authority in lieu of condemnation.

## ARTICLE 6
## THE ASSOCIATION

**6.01.** **Organization.** The Association is a nonprofit corporation created for the purposes, charged with the duties, and vested with the powers prescribed by law or set forth in its Certificate of Formation and By-laws or in this Declaration. Neither the Certificate of Formation nor By-laws will for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. The Association will not be dissolved without the written consent of at least *90%* of the total votes held by the members.

**6.02.** **Membership.** Every owner of a lot will automatically be a member of the Association as defined in the Association By-laws, Article 4, with voting rights as

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defined in the By-laws, Article 5.

**6.03. Powers and Authority of the Association.** The Association will have the powers of a Texas nonprofit corporation, subject only to the limitations expressly set forth in this Declaration. It will further have the power to do and perform any and all acts that may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration. Without in any way limiting the generality of the two preceding sentences, the Association and the Board, acting on behalf of the Association, will have the following powers and authority:

(a) Rules and By-laws. To make, establish, promulgate, amend, repeal, and re-enact the Association Rules and By-laws. The content of the Association Rules and By-laws may be established by the Board, provided that they do not conflict with this Declaration.

(b) Insurance. To obtain and maintain in effect policies of insurance that, in the opinion of the Board, are reasonably necessary or appropriate to carry out the Association's functions.

(c) Records. To keep books and records, including financial records, of the Association's affairs.

(d) Assessments. To levy Assessments as provided in Article 8. An Assessment is defined as the amount that must be levied in the manner and against the property set forth in Article 8 in order to raise the total amount for which the levy in question is being made.

(e) Right of Entry and Enforcement. To enter at any time in an emergency, or in a nonemergency after thirty (30) days' written notice, without being liable to any Owner, on any Lot and into any Improvement on a Lot, for the purpose of enforcing the Restrictions or for the purpose of maintaining or repairing any area, Improvement, or other facility to conform to the Restrictions, and the expense incurred by the Association in connection with the entry on any Lot and the maintenance and repair work conducted on it will be a personal obligation of the Owner of the Lot entered on, will be a lien on the Lot entered on and the Improvements on the Lot, and will be enforced in the same manner and to the same extent as provided in Article 8 for regular Assessments. The Association will have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents to it, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of the Restrictions. The Association is also authorized to settle claims, enforce liens, and take all action as it may deem necessary or expedient to enforce the Restrictions; however, the Board will never be authorized to expend any Association funds for the purpose of bringing suit against the prior Declarant.

Deleted: twenty-four (24) hours'

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(f) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper in the operation of the Association.

**6.04. Common Area and Facilities.** Subject to and in accordance with this Declaration, the Association, acting through the Board, will have the following duties:

(a) To accept, own, operate, and maintain all Common Area and Facilities together with all Improvements of any kind and for any purpose that may be located in those areas, and to accept, own, operate, and maintain all other property, real or personal and to maintain in good repair and condition all lands, improvements, and other Association property owned by or leased to the Association. Such maintenance will include, but will not be limited to, painting, mowing, and removing rubbish or debris of any kind.

(b) To pay all real-property taxes, personal-property taxes, and other taxes and Assessments levied on or with respect to Common Area and Facilities or any other property owned by or leased to the Association to the extent that the taxes and Assessments are not levied directly on the Members of the Association. The Association will have all rights granted by law to contest the legality of the amount of the taxes and Assessments.

(c) To take out and maintain current a policy of liability-insurance coverage to cover accidental bodily injury or death caused by the use and enjoyment of the Common Area and Facilities. This insurance will be in an amount as the Board deems appropriate.

## ARTICLE 7
## ARCHITECTURAL CONTROL COMMITTEE (ACC)

**7.01. Membership of Architectural Control Committee.** The Architectural Control Committee (ACC) will consist of not more than six (6) regular Members and six (6) adjunct members. The ACC Chairman will be recommended by the Board and approved by the POA membership at a duly called meeting. The other five regular members will be selected by the ACC Chairman and approved by the Board. The adjunct members will be selected randomly each year, two (2) from each of the three subdivisions from a pool of eligible members. Eligibility will be determined by the Board. Adjunct members will have the same voting rights as a regular member, but will not be required to vote. At least four (4) regular members must vote on any Committee decision. The POA President may also vote as a regular member if needed to obtain a quorum or break a tie vote.

**7.02. Action by Architectural Control Committee.** Items presented to the Architectural Control Committee will be decided by a majority vote of the Voting Members.

**7.03. Advisory Members.** The Voting Members may from time to time designate Advisory Members.

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**7.04.** **Term.** Each Regular Voting Member of the Architectural Control Committee will hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided in this Declaration. If any Voting Member dies or resigns, the remaining Voting Member or Voting Members will have full authority to act until a replacement Voting Member or Voting Members have been designated.

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

**7.06.** **Review of Proposed Construction.** Whenever in this Declaration the approval of the Architectural Control Committee is required, it will have the right to consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts that, in its sole discretion, are relevant. Except as otherwise specifically provided in this Declaration, before the commencement of any construction of any Improvement on the Property or any portion of it, the Plans and Specifications must be submitted to the Architectural Control Committee, and construction may not commence unless and until the Architectural Control Committee has approved the Plans and Specifications in writing. The Architectural Control Committee will consider and act on any and all Plans and Specifications submitted for its approval under this Declaration and perform the other duties assigned to it by this Declaration or as from time to time assigned to it by the Board. The Architectural Control Committee may also inspect any construction in progress to ensure its conformance with Plans and Specifications approved by the Architectural Control Committee. The Architectural Control Committee may review Plans and Specifications submitted for its review and any other information it deems proper. Until the Architectural Control Committee receives any information or documents it deems necessary, it may postpone review of any Plans and Specifications submitted for approval. No Improvement will be allowed on any Lot that is of such size or architectural design or involves the use of such landscaping, color schemes, exterior finishes, and materials and similar features as to be incompatible with the architectural styling defined in paragraph 4.05. The Architectural Control Committee will have the authority to disapprove any proposed Improvement based on the restrictions set forth in the preceding sentence and the decision of the Architectural Control Committee will be final and binding if it is made in good faith. The Architectural Control Committee will not be responsible for reviewing any proposed Improvement, nor will its approval of any Plans or Specifications or inspection of any construction in progress be deemed approval from the standpoint of structural safety, engineering soundness, or conformance with building or other codes.

**7.07.** **Variance.** Upon recommendation by the Architectural Control Committee, the Board may grant a request for variance from compliance with any of the provisions of this Declaration. Such recommendation for variance shall be made

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when a majority of the members of the Architectural Control Committee find that: 1) the variance will not impair or detract from the high-quality development of the Property or 2) the variance is justified due to unusual or aesthetic considerations or unusual circumstances. Notwithstanding anything to the contrary in this Declaration, the Architectural Control Committee is authorized to recommend and the Board is authorized to grant a waiver of any requirements relating to garages (including size), carports, dwelling size, Masonry requirements, fences, and setbacks, and the decision will be binding on all Owners of Property encumbered by this Declaration. All recommendations for variance must be evidenced by a written instrument in recordable form with the date of submission to the Board indicated therein and must be signed by at least four (4) of the regular Voting Members of the Architectural Control Committee. The request for variance will be effective on the date granted by the Board; provided however, that in the absence of a written denial of the request by the Board, a recommendation for variance will be deemed to be granted on the 30th day after its submission to the Board. The granting of a variance will not operate to waive or amend any of the terms or provisions of the covenants and restrictions applicable to the Lots for any purpose except as to the particular property and the particular instance covered by the variance, and a variance will not be considered to establish a precedent or future waiver, modification, or amendment of the terms and provisions of this Declaration.

**Deleted:** The Architectural Control Committee may grant variances from compliance with any of the provisions of this Declaration when, in the opinion of the Architectural Control Committee, in its sole discretion, the variance will not impair or detract from the high-quality development of the Property and the variance is justified due to unusual or aesthetic considerations or unusual circumstances. Despite anything to the contrary in this Declaration, the Architectural Control Committee is authorized, at its sole discretion, to waive any requirements relating to garages (including size), carports, dwelling size, Masonry requirements, fences, and setbacks, and the decision will be binding on all Owners of Property encumbered by this Declaration. All variances must be evidenced by written instrument in recordable form, and must be signed by at least four (4) of the regular Voting Members of the Architectural Control Committee.

**7.08. Actions of the Architectural Control Committee.** The majority of all of the regular members of the Architectural Control Committee, plus those adjunct members who choose to vote, will constitute an act of the Architectural Control Committee. Despite anything to the contrary, if the Architectural Control Committee fails to respond to a request for approval of Plans and Specifications within 20 days of receiving all required information, the Architectural Control Committee will be deemed to have approved the Plans and Specifications.

**7.09. No Waiver of Future Approvals.** No precedent of any prior architectural decision shall be valid evidence as to effecting any other decision.

**7.10. Work in Progress.** The Architectural Control Committee, at its option, may inspect all work in progress to ensure compliance with approved Plans and Specifications.

**7.11. Address.** Plans and Specifications will be submitted to the Architectural Control Committee, the current Chairman or to myacc@lakecypresssprings.org.

## ARTICLE 8
## FUNDS AND ASSESSMENTS

**8.01. Assessments.**

(a) The Association may from time to time levy Assessments and/or Special Assessments against each Lot. The level of Assessments will be equal and uniform between all Lots (except for the voluntary annual assessment cap defined in section

8.03). Neither the Developer nor Declarant will be charged an assessment for unsold lots.

Deleted: The developer

(b) When the obligation to pay an Assessment first arises after the commencement of the year or other period for which the Assessment was levied, the Assessment will be prorated as of the date when the obligation first arose in proportion to the amount of the Assessment year or other period remaining after that date.

(c) Each unpaid Assessment, together with the interest on it and the costs of collection, will be the personal obligation of the Owner of the Lot against which the Assessment fell due, and will become a vendor's lien against the Lot and all Improvements on it. The Association may enforce payment of Assessments in accordance with the provisions of this Article.

**8.02. Maintenance and Reserve Funds.** The Board will establish, as it deems necessary, a maintenance fund and a contingency reserve fund; all moneys paid to the Association will be deposited into these accounts, and disbursements will be made from them in performing the functions of the Association under this Declaration. The funds of the Association deposited into the maintenance and reserve funds must be used solely for purposes authorized by this Declaration, as it may from time to time be amended.

**8.03. Regular Annual Assessments.** Before the beginning of each fiscal year, the Board will estimate the expenses to be incurred by the Association during the year in performing its functions under the Restrictions, which will be limited to the costs incurred in exercising the powers granted to the Association in Section 6.04, the cost of enforcing the Restrictions, and a reasonable provision for contingencies and appropriate replacement reserves, less any expected income and any surplus from the prior year's fund. Assessments sufficient to pay the estimated net expenses will then be determined by the Board of Directors. The Board of Directors shall have the right to increase annual assessments from one year to the next by an amount not to exceed 5% of the previous year's level in order to meet budgetary requirements. All other changes to annual assessments, and all other assessments, shall only be made with the approval of a majority of the Members. The members may then vote to approve the Board's recommendation, change the amount, or leave the amount unchanged. The level of Assessments set by the members will be final and binding. All regular Assessments will be due and payable to the Association at the beginning of the calendar year and will be delinquent after March 31. In no event will the maximum regular annual Assessments per Lot be increased by more than five percent (5%) per year, unless approved by at least two-thirds (2/3) of the Members who are voting in person or by proxy at a meeting duly called for that purpose, with the same quorum as required for Special Assessments. Any POA member 75 years or older meeting the conditions listed below may request that their yearly assessment be capped at the rate in effect at that time. The following conditions shall apply:

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1) The cap applies only if the El Dorado property is the owner's permanent residence.

2) The cap is only for the yearly assessment, not for special assessments.

3) Only one of the resident owners need be 75 or older.

4) The owner must make the request - it is not automatic.

**8.04. Special Assessments.** In addition to the regular annual Assessments provided for above, the Board may levy special Assessments to enable the Board to carry out the mandatory functions of the Association under the Restrictions on the approval of at least two-thirds (2/3) of the Members at a meeting called for that purpose, by adequate notice, with at least fifty percent (50%) of the Members or their proxies present at the meeting. If fifty percent (50%) of the Members do not attend, a second meeting may be called with the same notice and the quorum needed for the second meeting will be thirty percent (30%) of the Members or their proxies.

**8.05. Owner's Personal Obligation for Payment of Assessments.** The regular and special Assessments provided for in this Declaration will be the personal and individual debt of the Owner of the Lot covered by the Assessments. No Owner may exempt itself from liability for the Assessments. For any default in the payment of any Assessment, the Owner of the Lot will be obligated to pay an annual interest rate of ten percent (10%) on the amount of the Assessment from the Assessment's due date, together with all costs and expenses of collection, including reasonable attorney fees.

**8.06. Assessment Lien and Foreclosure.** All amounts assessed in the manner provided in this Article but unpaid will, together with interest as provided in Section 8.05 and the cost of collection, including attorney fees as provided in this Declaration, become a continuing lien and charge on the Lot covered by the Assessment that will bind the Lot in the hands of the Owner and the Owner's heirs, devisees, personal representatives, successors, or assigns. This lien will be superior to all other liens and charges against the Lot, except for tax liens and all amounts unpaid on a Mortgage lien of record of first or second priority granted to an institutional lender, securing in either instance amounts borrowed for the purchase or improvement of the Lot in question. The Association will have the power to subordinate the Assessment lien to any other lien. This power will be entirely discretionary with the Board and the subordination must be signed by a duly authorized officer of the Association. To evidence the Assessment lien, the Association may prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by the lien and a description of the Lot. This notice will be signed by one of the officers of the Association and will be recorded in the office of the County Clerk of Franklin County, Texas. The lien for payment of Assessments will attach with the priority above set forth from the date that the payment becomes delinquent and, subject to the applicable provisions of the Texas Property Code, may be enforced by foreclosure

on the defaulting Owner's Lot by the Association in like manner as a mortgage on real property after the recording of a notice of Assessment lien as provided above, or the Association may institute suit against the Owner personally obligated to pay the Assessment or for judicial foreclosure of the lien. In any foreclosure proceeding, whether judicial or not judicial, the Owner will be required to pay the costs, expenses, and reasonable attorney fees incurred. The Association will have the power to bid on the property at a foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey, or otherwise deal with it. On the written request of any Mortgagee, the Association will report to the Mortgagee any unpaid Assessments remaining unpaid for longer than thirty (30) days after they are due.

## ARTICLE 9
## EASEMENTS

**9.01. Reserved Easements.** All dedications, limitations, restrictions, and reservations shown on the Plat and all grants and dedications of easements, rights-of-way, restrictions, and related rights made before the Property became subject to this Declaration are incorporated by reference and made a part of this Declaration for all purposes as if fully set forth in this Declaration and will be construed as being adopted in each and every contract, deed, or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Property. Declarant reserves the right to make changes in and additions to the easements for the purpose of most efficiently and economically developing the Property. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other Person, to grant, dedicate, reserve, or otherwise create, at any time or from time to time, easements for public-utility purposes (including without limitation gas, water, electricity, telephone, and drainage) in favor of any Person along any front, rear, or side boundary line of any Lot, which easements will have a maximum width of ten (10) feet (however, easements alongside yard lot lines will straddle the lot lines with five (5) feet on each of the adjoining Owner's Lots).

**9.02. Installation and Maintenance.** There is by this Declaration created, for the benefit of the City and other governmental entities and public utilities with jurisdiction over or providing utility services to the Subdivision, an easement on, across, over, and under all of the Property for ingress and egress in connection with installing, replacing, repairing, and maintaining all utilities (including but not limited to water, wastewater, gas, telephones, electricity lines, and related appurtenances) and for conducting authorized official governmental business. By virtue of this easement, it will be expressly permissible for the utility companies and other entities supplying utility service to install and maintain pipes, wires, conduits, service line, or other utility facilities or appurtenances on, above, across, and under the Property, within the public-utility easements from time to time existing and from service lines situated within the easements to the point of service on or in any Improvement. Despite any provision contained in this Section, no electrical lines, water lines, or other utilities or appurtenances may be relocated on the Property until approved by Declarant or the Architectural Control Committee. The utility companies furnishing services to the Subdivision and governmental entities conducting authorized official governmental

business within the Property will have the right to remove all trees and other obstructions situated within the utility easements shown on the Plat that are obstructing or otherwise precluding accomplishment of the authorized official governmental business, and to trim overhanging trees and shrubs located on portions of the Property abutting the easements. If the City is required to remove any trees or other obstructions in order to accomplish any authorized governmental business within the Property, then the City may assess the reasonable costs and expenses required for the removal to the Association, and the Association will be reimbursed, on written demand, for all costs and expenses from the Owner of the Lot(s) on which the obstructions were located. Any reimbursement required to be paid by any Owner under this Declaration will be deemed a regular Assessment of the Owner and will be paid in accordance with, and secured by the lien described in, Article 8.

**9.03. Drainage Easements.** Each Owner covenants to provide easements for drainage and water flow, as contours of land and the arrangement of Improvements approved by the Architectural Control Committee require. Each Owner further covenants not to disturb or displace any trees or other vegetation within the drainage easements as defined in this Declaration and shown on the Plat. There will be no construction of Improvements, temporary or permanent, in any drainage easement, except as approved in writing by the Architectural Control Committee.

**9.04. Surface Areas.** The surface of easement areas for underground utility services may be used for planting of shrubbery, trees, lawns, or flowers. However, neither the Declarant nor any supplier of any utility service using any easement area will be liable to any Owner or to the Association for any damage done by them or either of them, or their respective agents, employees, servants, or assigns, to any of this vegetation as a result of any activity relating to the construction, maintenance, operation, or repair of any facility in any of these easement areas.

**9.05. Common Area and Facilities.** Each Owner will have a nonexclusive easement for use and enjoyment in and to all Common Area and Facilities, which will be appurtenant to and will pass with title to each Owner's Lot, subject to the following rights:

(a) The right of the Association to suspend the Owner's right to use the Common Area and Facilities for any period during which an Assessment against the Owner's Lot remains unpaid, and for any period during which the Owner is in violation of the rules and regulations of the Association.

(b) The right of Declarant or the Association, as applicable, to dedicate or transfer all or any part of the Common Area and Facilities to any public agency, authority, or utility for any purposes and subject to any conditions as may be deemed reasonable by Declarant, in its sole discretion, or, in the case of the Association, approved by a two-thirds (2/3) vote of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose, with the same quorum as required for Special Assessments.

(c) The right of the Association to borrow money for the purpose of improving the Common Area and Facilities and, in furtherance of this purpose, to mortgage the Common Area and Facilities, all in accordance with the Certificate of Formation and By-laws.

(d) The right of the Declarant to promulgate reasonable rules and regulations regarding use of the Common Area and Facilities.

(e) The right of Declarant to contract for services with third parties on any terms as Declarant may determine.

**9.06. Self-Help Easement.** Each Owner grants to the Association an easement on, over, and across its Lot for purposes of curing any violation of the restrictions, covenants, and obligations set forth in this Declaration, including, but not limited to, a violation of its obligation to maintain its septic system.

Deleted: according to Section 3.12

## ARTICLE 10
## MISCELLANEOUS

**10.01. Term.** This Declaration, including all of its covenants, conditions, and restrictions, will be effective as of the date set forth on the signature below and will continue in effect for a period of twenty (20) years following the date this Declaration is recorded in the Real Property Records of Franklin County, Texas, after which it will be automatically extended for successive periods of ten (10) years each, unless amended or extinguished as set forth in Section 10.02.

**10.02. Amendment; Extinguishment.** This Declaration may be amended or extinguished only in accordance with the provisions of this Section. All provisions of this Declaration may be amended or extinguished by the recording in the Property Records of Franklin County, Texas of an instrument executed and acknowledged by the President and Secretary of the Association, setting forth the amendment or extinguishment and certifying that the amendment or extinguishment has been approved by Owners entitled to cast at least sixty-seven percent (67%) of the total possible votes.

**10.03. Notices.** Any notice permitted or required to be given by this Declaration, unless otherwise specified in this document or the By-Laws of El Dorado Bay, will be in writing and may be delivered either by certified mail, return receipt requested, or by personal delivery with a written receipt received. If delivery is made by certified mail, it will be deemed to have been delivered the date on which it was received by the Person to whom the notice was addressed. The address at which a Person is given notice may be changed from time to time by notice in writing given by the Person to the Association.

**10.04. Governing Law.** The provisions of this Declaration will be liberally construed to effectuate the purposes of creating a uniform plan for the development and operation of the Property and of promoting and effectuating the fundamental

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concepts of the Property set forth in this Declaration. This Declaration will be governed by and interpreted under the laws of the State of Texas.

**10.05. Exemption of Declarant.** Despite any provision in this Declaration to the contrary, neither Declarant nor any of Declarant's activities will in any way be subject to the control of or under the jurisdiction of the Architectural Control Committee. Without in any way limiting the generality of the preceding sentence, this Declaration will not prevent or limit the right of Declarant to excavate and grade, to construct and alter drainage patterns and facilities, to construct any and all other types of improvements.

**10.06. Nonliability of Architectural Control Committee and Board Members.** The Architectural Control Committee, the Board, and their members will not be liable to the Association or to any Owner or to any other Person for any loss, damage, or injury arising from their being in any way connected with the performance of the Architectural Control Committee's or the Board's duties under this Declaration unless due to the willful misconduct or bad faith of the Architectural Control Committee, the Board, or their members, as the case may be.

**10.07. Assignment of Declarant.** Despite any provision in this Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights, and duties under this Declaration to any other Person and may permit the participation, in whole or in part, by any other Person in any of these privileges, exemptions, rights, and duties.

**10.08. Enforcement and Nonwaiver.** Except as otherwise provided in this Declaration, any Owner (at its own expense), the Declarant, and/or the Board will have the right to enforce any and all provisions of the Restrictions. This right of enforcement will include both damages for, and injunctive relief against, the breach of any provision. The failure to enforce any provision at any time will not constitute a waiver of the right to enforce the provision or any other provision in the future. Also, the violation of any of the Restrictions by an Owner or the Owner's family, guests, tenants, lessees, or licensees will authorize the Board, acting on behalf of the Association, to avail itself of any one or more of the following remedies in addition to any other available remedies:

(a) The imposition of a special charge not to exceed one hundred dollars ($100) per violation.

(b) The suspension of the Owner's rights to use any Common Area and Facilities or other Association property so long as a violation exists.

(c) The right to cure or abate the violation and to charge any related expenses to the Owner.

(d) The right to seek injunctive and any other relief provided or allowed by law against the violation and to recover from the Owner all of the Association's

related expenses and costs, including but not limited to attorney fees and court costs. Before the Board may invoke the remedies provided above, it must give notice of the alleged violation to the Owner in the manner specified in Section 10.03, and must give the Owner an opportunity to request a hearing. If, after the hearing, or if no hearing is requested, after the deadline for requesting a hearing has passed, the Board determines that a violation exists, the Board's right to proceed with the listed remedies will become absolute. Each day a violation continues will be deemed a separate violation. All unpaid special charges imposed under this Section for violation of the Restrictions will be the personal obligation of the Owner of the Lot for which the special charge was imposed and will become a lien against the Lot and all Improvements on it. The liens will be prior to any declaration of homestead and the Association may enforce payment of the special charges in the same manner as provided in Article 8. Despite any provision in this Section to the contrary, the Board will not be required to afford an Owner a hearing before the filing of a lawsuit to collect past-due Assessments.

**10.09. Construction.** The provisions of the Restrictions will be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of a provision will not affect the validity or enforceability of any other provision or portion of a provision. Unless the context requires a contrary construction, the singular includes the plural and the plural the singular, and the masculine, feminine, or neuter each includes the masculine, feminine, and neuter. All headings and titles used in this Declaration are intended solely for convenience of reference and will not enlarge, limit, or otherwise affect that which is set forth in any of the paragraphs, sections, or articles in this Declaration.

**10.10. Rules of Franklin County Water District.** All rules of Franklin County Water District (or its successor) shall prevail. As owners of the land and original Lessors, their rules and regulations shall be enforced as if they were a part of these deed restrictions and each lessee or sub-lessee of individual lots in the El Dorado Complex shall make himself aware of said rules and regulations and remain current in said changes.

**10.11 Previous Rights.** Notwithstanding any of the provisions in this Document or the By-Laws of El Dorado Bay to the contrary, any rights possessed by the Developer or Declarant immediately prior to the effective date of either document concerning unsold lots shall not be diminished.

EXECUTED as of _____, 20___.

**DECLARANT:**

_____,
a(n) _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

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