

**TROPHY CLUB**

**165871**

**“THE KNOLL”**

**COVENANTS & RESTRICTIONS**

**DECLARATION OF COVENANTS AND RESTRICTIONS**  
**"THE KNOLL"**  
**(A Residential Subdivision)**

STATE OF TEXAS )  
COUNTY OF DENTON )

THIS DECLARATION, made as of the 11<sup>th</sup> day of December, 2002 by Terra/Knoll, Ltd. (hereinafter referred to as "Declarant").

**WITNESSETH:**

WHEREAS, Declarant (as that term is hereinafter defined) is the owner of the real property described in Article III of this Declaration, and desires to provide for the preservation of the values and amenities in such property, and, to this end, desire to subject such property to the covenants, restrictions, easements, charges, and liens hereinafter set forth, each and all of which is and are for the benefit of such property and each Owner thereof; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in The Subdivision, to delegate and assign the powers of maintaining and administering the Common Properties and Common Facilities in The Subdivision (as such terms are defined herein) and administering and enforcing the assessments and charges created hereinafter and in all Supplemental Declarations; and

WHEREAS, a non-profit corporation has been incorporated under the laws of the State of Texas for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, the Declarant declares that the real property described in Article III is and shall be held, transferred, sold, conveyed, occupied, and enjoyed subject to the covenants, restrictions, easements, charges, and liens (sometimes referred to herein collectively as "covenants and restrictions") hereinafter set forth.

**ARTICLE I**

**Definitions**

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

(a) "Association" shall mean and refer to the Homeowners Association, its successors and assigns.

(b) "The Subdivision" shall mean and refer to The Knoll, and all subsequent sections of The Knoll Subdivision brought within the scheme of this Declaration.

(c) "The Properties" shall mean and refer to the properties described in Article III hereof which are subject to this Declaration.

(d) "Subdivision Plats" shall mean and refer to the maps or plats of The Knoll, including the Amended Final Plat of The Knoll, filed 8/22/02 and recorded at Cabinet U, Slides 563 & 564, and that certain Replat filed 10/7/02 and recorded at Cabinet U, Slide 648, Plat Records of Denton County, Texas, or any subsequently recorded replats thereof.

(e) "Lot" and/or "Lots" shall mean and refer to each of the lots shown upon the Subdivision Plats or as may be shown on any replat thereof. References herein to the "the

Lots (each Lot) in The Subdivision" shall mean and refer to Lots as defined respectively in this Declaration and all Supplemental Declarations.

(f) "Living Unit" shall mean and refer to any single-family residential unit located on property which as been brought within the plan of this Declaration. References to Living Units herein shall not be deemed to permit the use of any Lot in The Subdivision for any purpose other than single-family residential purposes. References herein to "The Living Units in the Subdivision" shall mean and refer to Living Units as defined respectively herein and in all Supplemental Declarations.

(g) "Common Properties" shall mean and refer to all those areas of land within the Properties as shown on the Subdivision Plats, except the Lots, together with such other property as the Association may, at any time or from time to time, acquire by purchase or otherwise, subject, however, to the easements, limitations, restrictions, dedications and reservations applicable thereto by virtue hereof and/or by virtue of the Subdivision Plats, and/or by virtue of prior grants or dedications by Declarant or Declarant's predecessors in title. The streets within The Subdivision are private streets and are included within the Common Properties. References herein to the "the Common Properties (any Common Property) in The Subdivision" shall mean and refer to Common Properties as defined respectively in this Declaration and all Supplemental Declarations.

(h) "Common Facilities" shall mean and refer to all existing and subsequently provided improvements upon or within the Common Properties, except those as may be expressly excluded herein. Also, in some instances, Common Facilities may consist of improvements for the use and benefit of all Owners in The Subdivision constructed on portions of one or more Lots or on acreage owned by Declarant (or Declarant and others) which has not been brought within the scheme of this Declaration. By way of illustration, Common Facilities may include, but are not necessarily limited to, the following: private streets and sidewalks; private park; guard house and entry gate; entryway feature (with signage and landscaping); recreational facilities; structures for storage or protection of equipment; common driveways; landscaping; swimming pool; tennis courts; and other similar and appurtenant improvements. References herein to "the Common Facilities (any Common Facility) in The Subdivision" shall mean and refer to Common Facilities as defined respectively in this Declaration and all Supplemental Declarations.

(i) "Supplemental Declaration" shall mean and refer to any Supplemental Declaration of Covenants and Restrictions bringing additional property within the scheme of this Declaration under the authority provided herein. References herein (whether specific or general) to provisions set forth in "all (any) Supplemental Declarations" shall be deemed to relate to the respective properties covered by such Supplemental Declarations.

(j) "Owner" shall mean and refer to the record owner, or if such Lot is subject to a term purchase contract with Declarant, to the contract purchaser, whether one or more persons or entities, of the fee simple title to any Lot situated upon the Properties, but, notwithstanding any applicable theory of mortgage, shall not mean or refer to any mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure. References herein to "the Owners" (any Owner) in The Subdivision" shall mean and refer to Owners as defined respectively in this Declaration and all Supplemental Declarations. In one or more Supplemental Declarations "Owner" may be defined by reference to ownership of a Living Unit, in addition to or instead of by reference to the ownership of a Lot.

(k) "Member" and/or "Members" shall mean and refer to all those Owners who are members of the Association as provided in Section 4.4 hereof, together with all the Owners in The Subdivision who are members of the Association as provided in all

Supplemental Declarations. In one or more Supplemental Declarations, "Member" may be defined by reference to the Owner of a Living Unit, in addition to or instead of by reference to the Owners of a Lot.

## ARTICLE II

### Easements

Section 2.1. Existing Easements. The Subdivision Plats dedicate for use as such, subject to the limitations set forth therein, certain streets and easements shown thereon, and such Subdivisions and restrictions applicable to the Properties. Further, Declarant in title has heretofore granted, created and dedicated by recorded instruments, certain other easements and related rights affecting the Properties. All dedications, limitations, restrictions and reservations shown on the Subdivision Plats and all grants and dedications of easements and related rights heretofore made by Declarant in title affecting the Properties are incorporated herein by reference and made a part of this Declaration for all purposes, as if fully set forth herein, and shall 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 Properties.

Section 2.2. Changes and Additions. Declarant reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing the improvements.

Section 2.3. Title to Easements and Appurtenances Not Conveyed. Title to any Lot conveyed by Declarant by contract, deed, or other conveyance shall not be held or construed in any event to include the title to any roadways or any drainage, water, gas, sewer, storm sewer, electric light, electric power, telegraph or telephone way, or any pipes, lines, poles, or conduits on or in any utility facility or appurtenances thereto, constructed by or under Declarant or its agents through, along or upon any Lot or any part thereof to serve said Lot or any other portion of the Properties, and the right to maintain, repair, sell, or lease such appurtenances to any municipality or other governmental agency or to any public service corporation or to any other party is hereby expressly reserved in Declarant.

Section 2.4. Installation and Maintenance. There is hereby created an easement upon, across, over and under all of the Properties for ingress and egress in connection with installing, replacing, repairing, and maintaining all utilities, including but not limited to, water, sewer, telephones, electricity, gas, and the Broadband Communication System and appurtenances thereto. By virtue of this easement, it shall be expressly permissible for the utility companies and other entities supplying service to install and maintain pipes, wires, conduits, service lines, or other utility facilities or appurtenances thereto, on, above, across and under the Properties within the public utility easements from time to time existing and from service on or in any structure. Notwithstanding anything contained in this Section, no sewer, electrical lines, water lines, or other utilities or appurtenances thereto may be installed or relocated on the Properties until approved by Declarant.

Section 2.5. Emergency and Service Vehicles. An easement is hereby granted to all police, fire protection, ambulance and other emergency vehicles, and to garbage and trash collection vehicles, postal service employees and vehicles, and other service vehicles to enter upon the Properties in the performance of their duties.

Section 2.6. Surface Area. 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 or service using any easement area shall 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 the aforesaid vegetation as a result of any activity relating to the construction, maintenance, operation or repair of any facility in any such easement area. Further, neither the Declarant nor any supplier of any utility or service using any easement area shall 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 sidewalks,

driveways, fences, walls or any other object occupying any such easement or any portion thereof, as a result of any activity relating to the construction, maintenance or repair of any facility in any such easement area.

Section 2.7. Golf Course Requirements. Some of the Lots are adjacent to a golf course (the "Golf Course Property") and will be subject to any and all requirements that may be necessary to operate and maintain the Golf Course Property. These acts shall include, but not limited to, the play of golf, maintenance and construction necessary for the operation of the Golf Course Property, the flight of golf balls over and upon the Lot, the creation of the usual and common noise level associated with maintaining the Golf Course Property, the driving of machinery and equipment used in connection with maintaining the Golf Course Property, together with all such other common and usual activities associated with the game of golf and with all the normal and usual activities associated with the maintenance and operation of the Golf Course Property. Such noise may occur on or off the Golf Course Property, throughout the day from early morning until late evening.

Further, for all Lots that are adjacent to the Golf Course Property, the Owner must take steps necessary to insure that storm water runoff or irrigation and landscaping water runoff from the Lot is not allowed to collect, focus or disburse onto the Golf Course Property in any one area or location, but to ensure that any water from the Lot flow evenly onto the Golf Course Property. This provision may necessitate that any guttering, french drains, or other aboveground or underground drainage systems will provide an area to dissipate and spread runoff so as to prevent the focus of drainage from the Lot onto the Golf Course Property.

### ARTICLE III

#### Property Subject to this Declaration

Section 3.1. Description. The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration is all of The Knoll, approximately, in the Town of Trophy Club, Denton County, Texas, according to the Subdivision Plats thereof (or any subsequently recorded plat thereof).

Section 3.2. Mineral Reservation. There is hereby reserved from the Properties, and Declarant does hereby except and reserve from all future sales and conveyances of the Properties, or any part thereof, including the Lots and Common Properties, all oil, gas, and other minerals in, on, and under the Properties; but Declarant hereby waives its right to use the surface of any Lot for exploration for or development of oil, gas, and other minerals. Nothing herein, however, restricts or prohibits the pooling or unitization of the minerals with other property; or the exploration or production of the oil, gas, and other minerals by means of wells that are drilled or mines that open on property other than the Properties, provided that these operations in no manner interfere with the surface of subsurface support of any improvement constructed or to be constructed on the Properties.

Section 3.3. Additions to Existing Property. Additional lands may become subject to the scheme of this Declaration in the following manner:

(a) Additions by Declarant: The Declarant, its successors and assigns, shall have the right to bring within the scheme of this Declaration additional properties in future stages of the development (including without limitation, subsequent sections of Eagles Ridge Subdivision and all or portions of other subdivisions being or to be developed by Declarant or affiliated or subsidiary entities). Any additions authorized under this and the succeeding subsection, shall be made by filing of record a Supplemental Declaration of Covenants and Restrictions with respect to the additional property which shall extend the scheme of the covenants and restrictions of this Declaration of such property. Such Supplemental Declaration must impose an annual maintenance charge assessment on the property covered thereby, on a uniform, per Lot basis, substantially equivalent to the maintenance charge and assessment imposed hereby (which may be related to Lots or Living Units, as appropriate), and may contain such

complementary additions and/or modifications of the covenants and restrictions contained herein as may be applicable to the additional lands. Depending on the manner in which such additional lands are developed ultimately, the services provided by the Association which relate to the several sections (or portions thereof) in The Subdivision make use of the Common Property and Common Facilities in The Subdivision to such additional lands and the Owners therein, may approve Supplemental Declarations providing for maintenance charges and assessments on such additional lands which differ in amount, basis or method of computation from that provided for in this Declaration or other Supplemental Declarations.

(b) Other Additions. Upon the approval of the Board of Directors of the Association, in its sole discretion, the owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association may file of record a Supplemental Declaration of Covenants and Restrictions upon the satisfaction of the conditions specified in subsection (a) above.

(c) Mergers. Upon a merger or consolidation of the Association with another association, the Association's properties, rights, and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association may be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association shall administer the covenants and restrictions applicable to the properties of the merging or consolidating associations as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration or any Supplemental Declaration.

#### ARTICLE IV

##### The Association

Section 4.1. Organization. The Association shall be the Homeowners Association. It is anticipated that the Association shall be incorporated as non-profit corporation. However, Declarant may initially operate the Association as an unincorporated Association. During the period of time that the Association is unincorporated, the Declarant shall have the sole right and option to prescribe reasonable procedures for the meetings (if any) of the Members; provided, however, that prior to incorporation, without the written approval of the Declarant, no Member (other than Declarant) shall have a right to vote on any matter, or to call any meetings of the Members of the Association. Except as specifically set forth in this Declaration, notice, voting and quorum requirements for all action to be taken by the Association (as an incorporated entity) shall be consistent with its Articles of Incorporation and Bylaws, as same may be amended from time to time.

Section 4.2. Purpose. The purpose of the Association in general is to provide for and promote the health, safety, and welfare of the Members, to collect the annual maintenance charges and to administer the Maintenance Fund, to provide for the maintenance, repair, preservation, upkeep, and protection of the Common Properties and Common Facilities in The Subdivision and such other purposes as are stated in the Articles of Incorporation consistent with the provisions of this Declaration and all Supplemental Declarations.

Section 4.3. Directors. The Association shall act through a Board of Directors which shall manage the affairs of the Association.

Section 4.4. Members. Each Owner, whether one or more persons or entities, of a Lot or a Living Unit in The Subdivision shall, upon and by virtue of becoming such Owner, automatically become a Member of the Association and shall remain a Member thereof until his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership in the Association shall be appurtenant to and shall automatically follow the legal ownership of each Lot or Living Unit and

may not be separated from such ownership. Whenever the legal ownership of any Lot or Living Unit passes from one person to another, by whatever means, it shall not be necessary that any instrument provide for transfer of membership in the Association, and no certificate of membership will be issued.

Section 4.5. Voting Rights. The Association shall have two (2) classes of voting membership:

CLASS A. Class A Members shall be all Members with the exception of Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership.

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

when the total of votes outstanding in the Class A membership is eight (8) times greater than the total number of votes outstanding in the Class B membership; or  
when Declarant no longer owns record title to any of the Lots; or

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

When more than one person holds such interest or interests in any such Lot or Living Unit, all such persons shall be Members, and the vote for such Lot or Living Units shall be exercised as they among themselves determine, but, in no event, shall more than one vote be cast with respect to any such Lot or Living Unit.

## ARTICLE V

### Property Rights in the Common Properties and Common Facilities

Section 5.1. Members' Easements of Enjoyment. Subject to the provisions of Section 5.2, every Member shall have a common right and easement of enjoyment in and to the Common Properties and Common Facilities in The Subdivision, and such right and easement shall be appurtenant to and shall pass with the title to each Lot or Living Unit in The Subdivisions.

Section 5.2. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association, in its discretion, to charge reasonable admission and other fees for the use of the recreational Common Facilities, and to make, publish, and enforce reasonable rules and regulations governing the use and enjoyment of the Common Properties and Common Facilities or any part thereof, all of which reasonable rules and regulations shall be binding upon, complied with, and observed by each Member. These rules and regulations may include provisions to govern and control the use of such Common Properties and Common Facilities by guests or invitees of the Members, including, without limitation, the number of guests or invitees who may use such Common Properties and Common Facilities or any part thereof at the same time; and

(b) The right of the Association to grant or dedicate easements in, on, under or above such Common Properties or any part thereof to any public or governmental agency or authority or to any utility company for any service to The Subdivision or any part thereof; and

(c) The right of the Association to enter management and/or operating contracts or agreements relative to the maintenance and operation of such Common Properties and Common Facilities in such instances and on such terms as its Board of Directors may deem appropriate; the right of the Association to operate recreational facilities and related concessions located on such Common Properties; the right of the Association to enter lease agreements or concession agreements granting leasehold, concession, or other operating rights relative to Common Facilities in such instances and on such terms as its Board of Directors may deem appropriate; and

(d) The right of the Association to suspend the voting rights of a Member of his right to use any recreational Common Facility during the period he is in default in excess of thirty (30) days in the payment of any maintenance charge assessment against his Lot or Living Unit; and to suspend such rights for a period not to exceed sixty (60) days for an infractions of its published rules and regulations; and the aforesaid rights of the Association shall not be exclusive, but shall be cumulative of and in addition to all other rights and remedies which the Association may have in this Declaration and all Supplemental Declarations or in its Bylaws or at law or in equity on account of any such default or infraction; and

(e) The rights and easements existing, herein created or hereafter created in favor of others, as provided for in Article II hereof, and in this Declaration and all Supplemental Declarations; and

(f) The restrictions as to use of the Common Properties provided for in Article IX hereof.

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

(h) With respect to any and all portions of the Common Properties, Declarant, until Declarant no longer owns record title to any Lot or the tenth (10th) anniversary of the date this Declaration was recorded in the Office of the County Clerk of Denton County, Texas, whichever is the first to occur, shall have the right and option (without the joinder and consent of any person or entity, save and except any consent, joinder or approval required by the city or any other governmental agency having appropriate jurisdiction over the Common Properties) to: (i) alter, improve, landscape and/or maintain the Common Properties with the expense to be reimbursed by the Association; (ii) rechannel, realign, dam, bridge, bulwark, culvert and otherwise employ or utilize construction and/or engineering measures and activities of any kind or nature whatsoever upon or within the Common Properties; (iii) seek and obtain variances or permits of any kind or nature whatsoever upon or within the Common Properties; (iv) replat or redesign the shape or configuration of the Common Properties (including a reduction in size of the Common Properties) without the joinder of the Association (whether or not the association has received a conveyance of the Common Properties); and (v) seek and obtain any and all permits, licenses or exemptions from any and all governmental agencies exercising jurisdiction over the Common Properties and/or the uses or activities thereon.

Section 5.3. Delegation of Use. Any Member may delegate his right of use and enjoyment of the Common Properties and Common Facilities in The Subdivision, together with all easement rights granted to Members in this Declaration and all Supplemental Declarations, to the members of his family, his tenants, or contract purchasers who reside on his Lot or in his Living Unit. The terms "Member" is further defined

to include and refer to the executors, personal representatives and administrators of any Member, and all other persons, firms, or corporations acquiring or succeeding to the title of the Member by sale, grant, will, foreclosure, execution, or by and legal process, or by operation of law, or in any other legal manner.

## ARTICLE VI

### Assessments and Charges

Section 6.1. The Maintenance Fund. All funds collected by the Association from the regular maintenance charges provided for in this Article, together with all funds collected by the Association from the regular annual maintenance charges imposed on the Lots and Living Units in The Subdivision by this Declaration and all Supplemental Declarations, shall constitute and be known as the "Maintenance Fund." The Maintenance Fund shall be held, used, and expended by the Association for the common benefit of all Members for, among others, the following purposes, to-wit: to promote the health, safety, recreation, and welfare of the Members, including, without limitation, the installation, construction, erection, and relocation of improvements related to the enhancement and beautification of the Common Properties and Common Facilities in the Subdivision, and any other areas provided by this Declaration or any Supplemental Declaration to be developed or maintained by the Association, such as shrubbery, trees, walkways, and the mowing and general maintenance of vacant Lots in the Subdivision, and the construction, repair, maintenance and replacement of properties, services, improvements and facilities devoted to such purposes and related to the use and enjoyment of The Subdivision by the Members.

In the event Declarant shall designate Common Facilities for the use and benefit of all the Owners in The Subdivision which are situated on property owned by Declarant (or affiliated or subsidiary entities) but which then has not been brought within the scheme of this Declaration, the Association shall have the right and authority to allocate and expend such amounts from the Maintenance Fund for construction, repair, maintenance, upkeep, beautification, improvement or replacement of such Common Facilities as its Board of Directors shall determine, in its sole discretion. Further, if all or any such Common Facilities situated on property then not subject to the scheme of this Declaration also are for the use and benefit of persons or entities other than the Owners in The Subdivision, the Association shall have the right and authority to enter agreements with other persons or entities enjoying the use and benefit of such Common Facilities (or their designee), in such instances and on such terms as its Board of Trustees may deem appropriate and acceptable, obligating the Association to contribute, from the Maintenance Fund, a ratable portion of the amounts necessary from time to time to provide for the construction, repair, maintenance, upkeep, beautification, improvement or replacement of such Common Facilities, and providing for other agreements relative to the use and enjoyment of such Common Facilities (including limitations on the extent of the use and enjoyment thereof) by the various persons and entities entitled thereto.

The Association may, in its sole discretion, give one or more of the purposes set forth in this Section 6.1 preference over other purposes, and it is agreed that all expenses incurred and expenditures and decisions made by the Board of Directors of the Association in good faith shall be binding and conclusive on all Members.

In the event Declarant shall operate any Common Facility in The Subdivision, or such Common Facility shall be operated by others on behalf of Declarant under agreement authorized hereby, and the actual proceeds realized by Declarant from such operation shall be less than the actual costs incurred by Declarant in connection with operating and maintaining any such Common Facility, Declarant shall be entitled to be reimbursed from the Maintenance Fund for all costs actually incurred by Declarant in maintaining and operating such Common Facility in excess of the actual proceeds realized by Declarant from such operation, as such costs are incurred, to the extent that the balance of the Maintenance Fund from time to time existing exceeds the amount then designated by the Board of Directors of the Association in good faith to be the minimum amount necessary to accomplish the maintenance functions of the Association. Further, Declarant shall be entitled to be reimbursed from the Maintenance Fund for all ad valorem taxes and other assessments in the nature of property taxes fairly allocable to the Common Properties and Common Facilities and accrued subsequent to the recordation of The Declaration, and prior to the date on which title to such Common Properties and prior to the date on which title to such Common

Properties and Common Facilities is conveyed to the Association by Declarant, which have been actually paid by Declarant.

Section 6.2. Covenant for Assessments and Creation of Lien. Subject to the provisions set forth in Sections 3. and 4. relating to the rate at which the maintenance charge and assessment imposed herein shall be paid on unimproved Lots, each and every Lot in the Properties is hereby severally subjected to and impressed with a regular annual maintenance charge or assessment in the amount of \$1,200 per year (payable \$100 per month) per Lot (herein sometimes referred to as the "full maintenance charge") which assessment shall affect and run with the land, subject to increase and decrease and payable as provided in Section 6.5 below.

Each Owner of a Lot, by his claim or assertion of ownership or by accepting a deed to any such Lot, whether or not it shall be so expressed in such deed, is hereby conclusively deemed to covenant and agree, as a covenant running with the land, to pay to the Association, its successors or assigns, each and all of the charges and assessments against his Lot and/or assessed against him by virtue of his ownership thereof, as the same shall become due and payable, without demand. The unpaid amount of any assessment not paid by the delinquency date shall, together with the interest thereon and the cost of collection thereof, including reasonable attorneys' fees, become a continuing lien and charge on the Lot of the non-paying Owner, which shall bind such Lot in the hands of the Owner, and his heirs, executors, administrators, devisees, personal representatives, successors and assigns. A subsequent sale or assignment of the Lot shall not relieve the Owner from liability for any Assessment made prior to the date of sale or assignment and thereafter becoming due nor from the lien of any such Assessment. Liens for unpaid Assessments shall not be affected by any sale or assignment of a Lot and shall continue in full force and effect. To evidence any lien, the Association shall prepare a written notice of lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien and a description of the Lot covered by such lien. Such notice shall be executed by one of the officers of the Association and shall be recorded in the Office of the County Clerk. No Member shall be exempt or excused from paying any such charge or assessment by waiver of the use or enjoyment of the Common Properties and Common Facilities, or any part thereof, or by abandonment of his Lot or his interest therein. The liens hereby created and imposed shall be valid, subsisting and continuing, and shall maintain for so long as this Declaration and all Supplemental Declarations continue in effect, unless modified or amended in accordance herewith, notwithstanding the fact that at one or more times during the existence of this Declaration there may be no amount(s) due the Association, as it is the intention hereof that assessments shall arise annually and that same shall constitute present or future indebtedness, all of which shall be secured by the lien created hereby.

Section 6.3. Unimproved Lots Owned by Declarant or Builders. Declarant and builders shall pay ten percent (10%) of the then existing full maintenance charge assessment for each Lot owned by them, unless and until a residential structure has been built thereon and six (6) months have elapsed since the substantial completion of such residence, or the residence has been permitted to be occupied, whichever occurs first. Thereafter, commencing on the first day of the next succeeding calendar month, the full maintenance charge then assessed shall become applicable. If the annual maintenance charge on such Lot has been prepaid at ten percent (10%) of the full maintenance charge then assessed for the portion of the calendar year remaining after the full maintenance charge becomes applicable to such Lot, as herein provided, the then Owner of such Lot shall be obligated to pay to the Association, on the date the full maintenance charge becomes applicable, as herein provided, that prorata portion of ninety percent (90%) of such full maintenance charge as the number of full calendar months remaining in such calendar year bears to twelve (12). It shall be the duty of each builder to notify the Association at the time a residence has been substantially completed or permitted to be occupied. The term "substantial completion" as used herein shall mean that the residence is ready for occupancy, except for minor items which must be furnished, completed, corrected or adjusted. The term "builder" for the purpose of this Declaration is defined as any person, firm, corporation, or other entity who is engaged in the business of building residential structures for sale or rental purposes, and not for his or its personal use or occupancy.

Section 6.4. Unimproved Lots Owned by Owners Other Than Declarant and Builders. Owners of unimproved Lots other than Declarant and builder shall pay fifty percent (50%) of the then existing full maintenance charge assessment for each Lot owned by them until a residential structure has been completed

thereon and has been occupied. Thereafter, commencing on the first day of the next succeeding calendar month, the full maintenance charge then assessed shall become applicable. If the annual maintenance charge on such Lot has been prepaid at fifty percent (50%) of the full maintenance charge then assessed for the portion of the calendar year remaining after the full maintenance charge becomes applicable, as herein provided, that prorata portion of fifty percent (50%) of the full maintenance charge then assessed, which shall bear the same ratio to fifty percent (50%) of such full maintenance charge as the number of full calendar months remaining in such calendar year bears to twelve (12). It shall be the duty of each such Owner to notify the Association at the time such residential structure has been completed and occupied.

Section 6.5. The Annual Maintenance Charge. The annual maintenance charge assessments provided for herein shall take effect and become payable on the date (which shall be the first day of a month) fixed by the Board of Directors and shall be for the balance of the calendar year in which it is due, or shall be payable in equal monthly installments over the balance of the year, at the election of the Board of Directors of the Association. The assessments for each calendar year after the first assessment year shall be due and payable to the Association in advance on January 1st each year, or in twelve (12) equal monthly installments over such year, at the election of the Board of Directors of the Association. Provided, however, that, upon the purchase of his Lot (as evidenced by the date of his term Contract of Sale or Deed, or his occupancy, whichever is earlier), each Member shall be obligated to pay to the Association a prorata part of the applicable percentage (as determined pursuant to the terms hereof) of the regular annual maintenance charge assessed on such Lot, which shall bear the same ratio to the applicable percentage of the full remaining in the year of purchase bears twelve (12), and which shall be payable in full upon such purchase or in equal monthly installments over the balance of the year of purchase, as the Board of Directors of the Association may elect.

The Board of Directors of the Association may decrease or increase the amount of the annual maintenance charge of assessment provided for herein at any time and from time to time by the adoption of a resolution for such purpose, but no resolution increasing the annual maintenance charge assessment shall become effective prior to the expiration of ninety (90) days from date of its adoption. The Owner of each Lot shall, within thirty (30) days from such effective date, pay to the Association the proportionate part of such increase for the balance of the year in which such resolution is adopted; provided, however, that no resolution of the Board of Directors which increases the amount of the annual maintenance charge or assessment by more than 10% from the prior year shall become effective unless and until such resolution is ratified either (i) by the written assent of the Members of the Association who in the aggregate then own at least fifty-one percent (51%) of the Lots and Living Units in The Subdivision if no meeting of the membership is held for ratification, or (ii) by the assent of fifty-one (51%) of the votes of the Members of the Association who are present and voting in person or by proxy at a special meeting of the membership of the Association called for this purpose and at which a quorum is present. The written assent or the vote of the Members must be given prior to the effective date of such resolution of the Board of Directors. No increase in the annual maintenance charge of assessment shall take effect retroactively.

If any resolution of the Board of Directors which requires ratification by the assent of the Members of the Association as above provided shall fail to receive such assent, then the amount of the regular annual maintenance charge or assessment last in effect shall continue in effect until duly changed in accordance with the above provisions. The Board of Directors may decrease the amount of the annual maintenance charge of assessment without ratification by or assent of the Members of the Association.

Section 6.6. Quorum for any Action Authorized Under Section 6.5. The quorum required for any action authorized by Section 6.5. hereof shall be as follows:

At the first meeting called, as provided in Section 6.5. hereof, the presence at the meeting of Members, or of proxies, entitled to cast sixty percent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called and the required quorum at any such subsequent meeting shall be one-half (1/2) the required quorum at the preceding meeting, provided that such reduced quorum requirement shall not be applicable to any such subsequent meeting held more than sixty (60) days following the preceding meeting.

Section 6.7. Setting, Commencement and Notice of Assessments. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot or Owner for each assessment period and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto. The Association, shall, upon demand at any time, furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 6.8. Priority of Liens to Secure Assessments. The annual maintenance charges or assessments, as hereinabove provided for, shall constitute and be secured by the separate, valid and subsisting lien, hereinabove created and fixed, and which shall exist upon and against each Lot and Living Unit and all improvements thereon, for the benefit of the Association and all Members. Subject to the condition that the Association be made a party to any Court proceeding to enforce any lien hereinafter deemed to be superior, the lien hereby created shall be subordinate and inferior to:

(a) all liens for taxes or special assessments levied by the Town, County, and State governments, or any political subdivision or special district thereof, and

(b) all liens securing amounts due or to become due under any term Contract of Sale dated, or any mortgage, vendor's lien, or deed of trust filed for record, prior to the date payment of any such charges or assessments become due and payable, and

(c) all liens, including, but not limited to, vendor's liens, deeds of trust, and other security instruments which secure any loan made by a lender to an Owner for any part of the purchase price of any Lot when the same is purchased from a builder or for any part of the cost of constructing, repairing, adding to, or remodeling the residence and appurtenances situated on any Lot to be utilized for residential purposes.

Any foreclosure of any such superior lien under the power of sale of any mortgage, deed of trust, or other security instrument, or through Court proceedings in which the Association has been made a party, shall cut off and extinguish the liens securing maintenance charges or assessments which became due and payable prior to such foreclosure date, but no such foreclosures shall free any Lot from the liens securing assessments thereafter become due and payable, nor shall the liability of any Member personally obligated to pay maintenance charges or assessments which become due prior to such foreclosure, be extinguished by a foreclosure.

Section 6.9. Effect of Non-Payment of Assessment. If any annual maintenance charge of assessment is not paid within thirty (30) days from the due date thereof, the same shall bear interest from the due date until paid at the highest interest rate allowed under the laws of the State of Texas, and, if placed in the hands of an attorney for collection or if suit is brought thereon or if collected through probate or other judicial proceedings, there shall be paid to the Association an additional reasonable amount, but not less than ten percent (10%) of the amount owing, as attorneys fees. The Association, as a common expense of all Members, may institute and maintain an action at law or in equity against any defaulting Member to enforce collection and/or for foreclosure of the liens against his Lot. All such actions may be instituted and brought in the name of the Association and may be maintained and prosecuted by the Association in a like manner as an action to foreclose the lien of a mortgage or deed of trust on real property.

Section 6.10. Collection and Enforcement. Each Member, by his assertion of title or claim of ownership or by his acceptance of a deed to a Lot or Living Unit, whether or not it shall be so recited in such deed, shall be conclusively deemed to have expressly vested in the Association, and in its officers and agents, the right, power and authority to take all action which the Association shall deem proper for the collection of assessments and/or for the enforcement and foreclosure of the liens securing the same, including non-judicial foreclosure pursuant to Section 51.002 of the Texas Property Code, and such Owner hereby expressly grants to the Association the private power of sale in connection with said liens. The

Association may also suspend the Association membership and voting rights of any Owner who is in default in payment of any Assessment in accordance with this Declaration and/or the Bylaws.

The Association may institute an action at law against the Owner or Owners personally obligated to pay the Assessment and/or for the foreclosure of the aforesaid lien. In any foreclosure proceeding the Owner shall be required to pay the costs, expenses and reasonable attorneys' fees incurred by the Association. In the event an action at law is instituted against the Owner or Owners personally obligated to pay the Assessment there shall be added to the amount of any such Assessment:

- the interest provided in this Section,
- the costs of preparing and filing the complaint in such action,
- the reasonable attorneys' fees incurred in connection with such action, and
- any other costs of collection.

**Section 6.11. Utility Standby Charge.** No utility standby charge shall be due on Lots owned by the Declarant.

**Section 6.12. Estoppel Information from Board with Respect to Assessments.** The Board of Directors or an officer of the Association shall upon request furnish to any Owner liable for an Assessment, a certificate in writing signed by an officer of the Association, setting forth whether said Assessment has been paid. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid. A reasonable charge may be made by the Board of Directors of the Association for the issuance of such certificates.

## ARTICLE VII

### **Architectural Control Committee;** **Architectural and Construction Control**

**Section 7.1. Architectural Control Committee.** The Architectural Control Committee, hereinafter called "the Architectural Control Committee" shall be composed of three (3) or more individuals selected and appointed by Board of Directors. The Committee shall function as a representative of the Owners of the Lots for the purposes herein set forth as well as for all other purposes consistent with the creation and preservation of a first-class residential development. The Committee shall use its best efforts to promote and ensure a high level of quality, harmony and conformity throughout the properties.

A majority of the Committee Members may act on behalf of entire Committee. In the event of the death or resignation of any Committee Member, the remaining Committee Members shall have full authority to designate and appoint a successor. Each Committee Members shall neither be entitled to any compensation for service performed hereunder nor be liable for claims, causes of action or damages (except where occasion by gross negligence or arbitrary and capricious conduct) arising out of service performed pursuant to this Declaration.

**Section 7.2. Transfer of Authority to the Association.** The duties, rights, powers and authority of the Architectural Control Committee constituted hereby may be assigned at any time, at the sole election of a majority of the Committee Members, to the Board of Directors of the Association, and from and after the date of such assignment, and the acceptance thereof by such Trustees, the Board of Directors of the Association shall have full right, authority and power, and shall be obligated, to perform the functions of the Architectural Control Committee as provided herein, including the right to designate a representative or representatives to act for it.

**Section 7.3. Minimum Construction Standards.** The Architectural Control Committee may from time to time promulgate architectural standard bulletins ("Standard Bulletins") which shall be fair, reasonable and uniformly if applied hereafter, and shall carry forward the intention of this Declaration. Standard Bulletins shall cover minimum acceptable construction standard and specifications (including, without limitation, a limited number of acceptable exterior materials and/or finishes), which shall constitute

guidelines only and shall not be binding upon the Architectural Control Committee or in any manner determinative of the approval or disapproval by such Committee of submitted plans and specifications. The Standard Bulletins shall supplement the Declaration and are incorporated herein by reference.

Section 7.4. Approval of Plans

(a) No building, structure, fence, wall, or other improvements shall be commenced, erected, constructed, placed or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the detailed plans and specifications therefore shall have been submitted to and approved in writing as to compliance with minimum structural and mechanical standards, slab evaluation, location and situation on the Lot, and as to harmony of external design or location in relation to property lines, building lines, easements, grades, surrounding structures, walks, and topography (including the orientation of the front and rear of any such building with respect to the Lot lines), by the Architectural Control Committee constituted as provided herein. Each application made to the Architectural Control Committee for the approval required hereby shall be accompanied by two (2) sets of plans and specifications which shall specify, in such form as the Architectural Control Committee may reasonably require, structural, mechanical, electrical, and plumbing detail and the nature, kind, shape, height, exterior color scheme, materials to be incorporated into, and location of the proposed improvements or alterations thereto, the location of all driveways and curb cuts, and the compliance of the drainage of said Lot with the overall planned drainage of the Properties as developed and pronounced by Declarant. In the event said Architectural Control Committee fails to approve or disapprove such plans and specifications with thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and the provisions of this Section will be deemed to have been fully complied with; provided, however, that the failure of the Architectural Control Committee to approve or disapprove such plans and specifications within such thirty (30) day period shall not operate to permit any structure to be commenced, erected, placed, constructed or maintained on any Lot in the Properties in a manner inconsistent with any provision of this Declaration. Without limitation of the powers herein granted, the Architectural Control Committee shall have the right to specify a limited number of acceptable exterior materials and/or finishes that may be used in the construction, alteration and repair of any improvement on any Lot.

The Architectural Control Committee also shall have full power and authority to reject any plans and specifications that do not comply with the restrictions herein imposed to meet its minimum construction requirements or architectural design requirements that might not be compatible, in the sole discretion of the Architectural Control Committee, with the design or overall character and aesthetics of the Properties.

(b) The Architectural Control Committee shall have the power and authority to alter and amend requirements as to design of buildings and materials to be used in the construction thereof for any Lot or Lots, provided that such authority shall be exercised for the purpose of harmonizing and making aesthetically attractive The Properties or the portion of The Properties in which the Lots so affected are located, as such matters may be determined in the good faith judgment of the Architectural Control Committee.

(c) The Architectural Control Committee or its duly appointed agent or designee may enter upon and inspect any Lot and any Improvements or structures being constructed thereon, and the drainage of the Lot in relation to the remainder of the Properties at any time during the construction thereof to ascertain whether any such improvements or structures are being constructed in such a manner so as to (i) fully comply with the provisions of the Declaration and any minimum construction or design requirements imposed by the Architectural Control Committee, and (ii) comply in all material respects to the plans and specifications previously approved by the Architectural Control Committee. Each and every Owner by acceptance of conveyance of the applicable Lot shall be deemed to have granted to the Architectural Control Committee and its appointed agent or designee an easement across said Lot to enable the inspection authorized hereby.

(d) If any structure shall be erected, placed or maintained or if any improvements shall be made on any Lot other than in accordance with plans and specifications approved by the Architectural Control Committee, such structure or improvement shall constitute a violation. In the event such violation

is not cured within a reasonable period of time, the Architectural Control Committee shall have the right to take necessary action provided by law to cause same to be cured. The costs of any such successful action shall be borne by the Owner.

Section 7.5. Slab Elevation Certification. The Architectural Control Committee shall additionally have the power to set minimum slab elevations for any Lot within the Properties. In connection therewith, each affected Owner shall submit to the Architectural Control Committee, prior to commencement of the construction or erection of any residential structure, attached garage or other attached appurtenance thereto on any Lot, together with the plans and specifications and other data herein required, a certificate from a registered professional engineer (or such other authority as shall be acceptable to the Architectural Control Committee) certifying, in such form as may be required by the Architectural Control Committee, the elevation above mean sea level of the top of the finished slab (or finished beam, if a pier and beam foundation is utilized) for all portions of such residential structure, attached garage or other attached appurtenance relative to and based on such submitted plans and specifications and the proposed location of such structure on the Lot.

Section 7.6. Construction Requirements.

(a) Only new construction materials (except for used brick) shall be used and utilized in constructing any structure situated on a Lot. Eighty percent (80%) of the exterior materials of all residential structures on all Lots shall be of brick, stone or stucco, of the remaining twenty percent (20%) no exterior construction shall be of less than 3/4 inch thick materials, and the use of plywood, aluminum or metal siding is prohibited.

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

(c) A concrete sidewalk four (4) feet wide shall be constructed from the street adjacent to the front of each Lot to the front of the residential structure to be situated thereon. The plans for each residential building on each Lot shall include plans and specifications for such required sidewalk and any other proposed sidewalk. Such required sidewalk and other approved sidewalks, if any, shall be constructed and completed before the main residence is occupied.

## ARTICLE VIII

### Building and Use Restrictions

Section 8.1. Residence Building and Garages. No building or other structure shall be built, placed, constructed, reconstructed, or altered on any Lot other than a single family residence, with appurtenances incident to single family use, including, without limitation, bona fide servants' quarters, and no structure shall be occupied or used until the exterior construction therefore is completed. Each single family residence situated on a Lot shall have an enclosed, attached or detached garage for not less than three (3) nor more than four (4) automobiles. No garage shall be constructed so as to face the street or the Golf Course unless expressly approved in advance and in writing by the Architectural Control Committee. No detached garage shall have more than two (2) stories. No carport shall be built, placed, constructed or reconstructed on any Lot. The ground floor of any garage shall never be changed, altered, reconstructed or otherwise converted for any purpose inconsistent with the garaging of automobiles. All Owners, their families, tenants and contract purchasers shall, to the greatest extent practicable, utilize such garages for the garaging of vehicles belonging to them.

Garage doors shall be kept closed at all times except during periods of use. After nightfall, garage doors shall be kept closed except during periods of ingress and egress.

Section 8.2. Single Family Residential Use. Each Lot (including land and improvements) shall be used and occupied for single family residential purposes only. No Owner or other occupant shall use or occupy his Lot, or permit the same or any part thereof to be used or occupied, for any purpose other than as a private single family residence for the Owner or his tenant and their families and domestic servants employed on the premises. As used herein the term "single family residential purposes" shall be deemed to prohibit specifically, but without limitation, the use of Lots for duplex apartments, garage apartments or other apartment use. No Lot shall be used or occupied for any business, commercial, trade, or professional purpose either apart from or in connection with the use thereof as a private residence, whether for profit or not.

Section 8.3. Minimum Lot Area. Lots may be resubdivided if (and only if) such subdivision results in each resubdivided Lot containing not less than fifteen thousand (15,000) square feet of land. Provided, however, Declarant shall have and reserves the right, at any time to file a replat of the Subdivision Plat or Plats to effect a resubdivision or configuration of any Lots in the Properties then owned by Declarant, so long as such results in each resubdivided Lot containing not less than fifteen (15,000) square feet of land. The privilege to replat Lots in The Properties owned by Declarant reserved in this Section 8.3 shall be exercisable only by Declarant or any successor or Declarant's ownership of such Lots who acquires such ownership other than by purchase, and such privilege shall not be exercisable by, inure to the benefit of, or be assignable to any purchaser from Declarant or from any successor or assign of Declarant, of any Lot in The Properties.

Section 8.4. Combining Lots. Any such consolidation shall be permitted within the Town's rules and regulations.

Section 8.5. Size of Residences. No residential structure erected on any Lot shall have more than two and one half (2-1/2) stories. No residential structure with a net living area of less than three thousand five hundred (3,500) square feet exclusive of the area of attached garages, porches, servant's quarters, or other appurtenances or appendages, shall be erected on any Lot. No residential structure with a net living area of less than three thousand five hundred (3,500) square feet exclusive of the area of garages, porches, servant's quarters, or other appurtenances or appendages, shall be erected on any Golf Course Lots.

Section 8.6. Building Location. No structure shall be located on any Lot between any building setback line shown on or provided for in the Subdivision Plats and the street or Lot line to which such building setback line is applicable. No building shall be located nearer than ten (10) feet to any interior Lot line. No main residential structure shall be located on any Lot nearer than twenty (20) feet to any rear Lot line. Unless otherwise approved in writing by the Architectural Control Committee, each main residence shall face the front Lot line of the Lot upon which it is situated. Each garage shall be provided with a driveway access from the front of the Lot upon which it is situated; provided that, in the sole discretion of the Architectural Control Committee, such access may be from the front or side of corner Lots; and further provided that no garage or other permitted accessory building on any Lot shall open toward or have access from the direction of the rear Lot lines of the Golf Course. All garage doors shall be equipped with an automatic garage door closer (which the owner shall maintain in a functional condition), and each Owner shall be obligated to keep his garage door and/or doors closed at all times, except at time of entry or exit from the garage facility. For the purpose of this subsection, eaves, steps and open porches shall not be considered as a part of the building; provided, however, that the foregoing shall not be construed to permit any position of a building on any Lot to encroach upon another Lot or any drainage or utility easement.

With respect to Golf Course Lots, no building, patio, deck, terrace or other similar open porch, swimming pool, or structure of any kind, artificially surfaced area shall be located nearer than ten (10) feet from the rear Lot line (or any other interior Lot line which abuts and parallels any portion of the Golf Course).

Unless otherwise approved in writing by the Architectural Control Committee, each main residence building will face the front of the Lot, and each detached garage will be located at least fifty (50) feet from the front of the Lot on which it is situated, and each garage (whether attached or detached) will be provided with a driveway access from the front of the Lot; provided that such access may be from the front or side of corner Lots.

Section 8.7. Air Conditioners. No window or wall type air conditioners shall be permitted to be used, placed or maintained on or in any building in any part of The Properties.

Section 8.8. Garbage Disposal. Each kitchen in each residential structure on any Lot shall be equipped with a garbage disposal unit, which garbage disposal shall at all times be kept in an operational condition.

Section 8.9. Roofing. The approved roofing material shall be clay tile, or fiberglass shingles with a minimum weight of 300 pounds per square. Use of any other roofing material requires written approval from the Architectural Control Committee and the Town of Trophy Club. The use of any roofing materials in the predominant color of white is expressly prohibited.

Section 8.10. Prohibition Against Aluminum Windows. No gray aluminum (mill finish) windows shall be used in the construction of any dwelling or other building on any portion of The Properties unless specifically authorized in writing by the Architectural Control Committee.

Section 8.11. Antennas, etc. No electronic antenna or device of any type, including any type or form of satellite dish, other than one antenna for receiving television signals, FM signals and/or citizen's band signals larger than 18" high or 18" diameter shall be erected, constructed, placed or permitted to remain on any other Lots, residences thereon or other permitted buildings constructed in The Properties. The permitted antenna may be attached to the residential structure; however, the antenna's location shall be restricted so as to be hidden from sight, when viewed from any street or the Golf Course.

Section 8.12. Walls, Fences and Hedges. No walls, fences or hedges shall be erected or maintained nearer to the front Lot line than the front wall of the structure situated on such Lot. All side or rear fences and walls must be at least four (4) feet in height. The following fences shall be constructed of see through ornamental black wrought iron (no wood permitted) and be four (4) feet in height or less: (a) fences along the rear of Golf Course Lots (along or adjacent to and basically parallel to the rear Lot lines of the Golf Course Lots); (b) all front fences (facing the street); and (c) on corner Lots, all side fences (facing the side street).

Wood fences shall be permitted on interior Lot lines (except, as provided above, not along the rear of Golf Course Lots and not along side Lot lines facing a side street).

No chain link fences shall be permitted.

Ownership of any wall, fence or hedge erected on a Lot by Declarant (and the right to erect any such wall, fence or hedge for such purpose is hereby reserved in favor of Declarant, its successors and assigns) shall pass with title to such Lot and it shall be the Owner's responsibility to maintain said wall thereafter. In the event of default on the part of the Owner of any Lot in maintaining said wall, and such default continuing after ten (10) days written notice thereof, Declarant, its successors or assigns may, at its option, without liability to the Owner or occupant in trespass or otherwise, enter upon said Lot and cause said protective screening to be repaired or maintained or to take any other action necessary to secure compliance with this Declaration, and place said wall in a satisfactory condition, and may charge the Owner or occupant of such Lot for the cost of such work by submitting a statement to such Owner setting forth the cost of such work to the Owner or occupant of such Lot. The Owner or occupant, as the case may be, agrees by the purchase or occupancy of such Lot, to pay such statement immediately upon receipt thereof. The amount of such charge, together with interest thereon at the rate of ten percent (10%) per annum and reasonable costs of collection, shall be a charge and continuing lien upon such Lot, as well as the continuing personal obligation of the Owner of such Lot at the time such charge is incurred. The lien securing such

charge shall be second, subordinate and inferior to all liens, present and future, given, granted and created by or at the instance or request of the Owner of any such Lot to secure the payment of monies advanced on account of the purchase price and/or improvement of any such Lot.

Section 8.13. Temporary and Other Structures. No structure of a temporary character, no trailer, mobile, modular or prefabricated home, tent, shack, barn, or any other than structure or building other than the residence to be built thereon in accordance herewith, shall be placed on any Lot, either temporarily or permanently, and no residence house, garage or other structure appurtenant thereto shall be moved upon any Lot from another location; except, however, that Declarant reserves the exclusive right to erect, place and maintain, and to permit builders to erect, place and maintain, such facilities in and upon The Properties as in its sole discretion may be necessary or convenient during the period of and in connection with the sale of Lots, construction and selling of residences and constructing other improvements in the Properties. Such facilities may include, but not necessarily be limited to, a temporary and sales office. Declarant and builders shall also have the temporary right to use a residence situated on a Lot as a temporary office or model home during the period of and in connection with construction and sales operations in the Properties, but in no event shall a builder have such right for a period in excess of one (1) year from the date of substantial completion of his last residence in the Properties.

Section 8.14. Driveways and Culverts. Each Lot must be accessible to an adjoining street by a driveway suitable for such purposes before the residential structure located on any such Lot may be occupied or used. No Owner may block any drainage channel (including road ditches). The specifications for and construction of all drain tiles or culverts, whether to be installed in connection with a driveway or otherwise, must be approved by the Architectural Control Committee. Driveways shall be entirely of concrete and shall be constructed with expansion joints not more than twenty feet apart, with one joint at the back of the street curb. The width of each driveway shall flair and the curb shall be cut in such a manner that the driveway shall be at least six (6) inches thick at its end toward the street paving, and this extreme shall be poured against a horizontal form board to reduce the unsightly appearance of a raveling driveway. Driveway surface to be exposed aggregate or stamped and colored concrete.

Section 8.15. Landscaping. Before any landscaping shall be done in the front of any newly constructed residential structure, the landscape layout and plans must be first approved by the Architectural Control Committee. Such landscaping is to be done in the parkway area and on the front of the Lot at the time the residential structure is being completed and before occupancy. All to include sprinkler system and fully sodded.

Section 8.16. Exterior Chimneys. All exterior exposed fireplace structures shall be masonry clad with the same material as the residence. No metal chimney cap shall be allowed without written authorization from the Architectural Control Committee.

Section 8.17. Removal of Dirt; Erosion Control. The digging of dirt or the removal of any dirt from any Lot or from any portion of the Common Properties is prohibited, except as necessary in conjunction with landscaping or construction of improvements thereon. During the construction of improvements on the Lots and prior to the landscaping of such Lots, measures will be taken to prevent excessive erosion of Lots, causing silt to be deposited in streets and/or alleys and in the storm drainage.

Section 8.18. Septic Tanks. No privy, cesspool, or septic tank shall be placed or maintained upon or in any Lot, or any other portion of the Properties.

Section 8.19. Mail Deposit Receptacles. The Architectural Control Committee reserves the right to approve the type, design and installation of any mail delivery boxes or mail deposit receptacles.

Section 8.20. Signs. Except for signs, billboards or other advertising devices displayed by Declarant for so long as Declarant or any successors or assigns of Declarant to whom the rights of Declarant are expressly transferred, shall own any portion of the Properties, no sign of any kind shall be displayed to the public view on any Lot or the Common Properties except:

(a) Builders may display one (1) sign of not more than five (5) square feet on a Lot to advertise the Lot and residential structure situated thereon for sale during the sales and/or construction period; and

(b) Any Owner may display one (1) sign of not more than five (5) square feet on a Lot improved with a residential structure to advertise the Lot and residence for sale or rent.

Section 8.21. Nuisance. No noxious or offensive activity shall be carried on or permitted upon any Lot or upon the Common Properties, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood or to other Owners. The Board of Directors of the Association shall have the sole and exclusive discretion to determine what constitutes a nuisance or annoyance. No trucks larger than three-quarters of a ton, motor vehicle not currently licensed, boats, trailers, campers, motor or mobile homes or other vehicles shall be permitted to be parked on any Lot, except in a closed garage, or on any street, except passenger cars and trucks smaller than three-quarters of a ton may be parked on the street in front of the Lot for a period not to exceed twelve (12) hours in any twenty-four (24) hour period. No repair work, dismantling, or assembling of motor vehicles or other machinery or equipment shall be done or permitted on any Lot (except inside a closed garage), street, or any portion of the Common Properties. The use of discharge of firearms, airguns, bows and arrows, or any other device or instrument capable of injuring or killing, firecrackers, or other fireworks in the Properties is prohibited. No motor bikes, motorcycles, motor scooters, "go-carts", or other similar vehicles shall be permitted to be operated in the Properties, if, in the sole judgement of the Board of Directors of the Association, such operation, by reason of noise or fumes emitted, or by reason of manner of use, shall constitute a nuisance.

Section 8.22. Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot or on any portion of the Common Properties, except that dogs, cats, or other common household pets (not to exceed three (3) adult animals) may be kept, but they shall not be bred or kept for commercial purposes. Any dogs, cats or other common household pets that may be kept on the premises of any Lot, shall, upon leaving or being taken from said Lot, be restrained in the care, custody and control of the pet's owner by a leash, rope, chain or other device, and shall not be allowed to run loose in the Common Properties, streets, the Golf Course, Lots, or any other areas.

Section 8.23. Garbage and Refuse Storage and Disposal. All Lots and the Common Properties shall at all time be kept in a healthful, sanitary and attractive condition. No Lot, street or any part of the Common Properties shall be used or maintained as a dumping grounds for garbage, trash, junk or other waste matter. All trash, garbage, or waste matter shall be kept in adequate containers constructed of metal, plastic or masonry materials with tightly-fitting lids, which shall be maintained in a clean and sanitary condition and screened from public view. No Lot shall be used for open storage of any materials whatsoever, which storage is visible from the street, except that new building materials used in the construction of improvements erected on any Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without unreasonable delay, until completion of the improvements, after which these materials shall either be removed from the Lot, or stored in a suitable enclosure on the Lot. There is hereby reserved in favor of the Association the determination of the method of garbage disposal, that is, whether it shall be through public authority or through private garbage disposal service. No garbage, trash, debris, or other waste matter of any kind shall be burned on any Lot.

In the event of default on the part of the Owner of any Lot in observing the above requirements, or any of them, such default continuing after ten (10) days written notice thereof, Declarant, or its successors and assigns may, at its option, without liability to the Owner in trespass or otherwise, enter upon said Lot and cause to be removed such building materials, garbage, trash and rubbish or do any other thing necessary to secure compliance with this Declaration in order to place said Lot neat, attractive, healthful and sanitary condition, and may assess the Owner of such Lot for the cost of such work, by submitting a statement setting forth the cost of such work to the Owner of such Lot. The Owner agrees by the purchase or occupancy of such Lot to pay such statement immediately upon receipt thereof. Each such assessment, together with interest thereon at the rate of ten percent (10%) per annum and reasonable costs of collection, shall be a charge and continuing lien upon such Lot, as well as the continuing personal obligation of the

Owner of such Lot at the time of such assessment. The lien securing such assessment shall be second, subordinate and inferior to all liens, present and future, given, granted and created by or at the instance or 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 improvement of any such Lot.

Section 8.24. Lot Maintenance. The Owners or occupants of all Lots shall at all times keep all weeds and grass thereon cut in a sanitary, healthful and attractive manner and shall in no event use any Lot for storage of materials and equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted or permit the accumulation of garbage, trash or rubbish of any kind thereon. The drying of clothes in full public view is prohibited, and the Owners or occupants of any Lots at the intersection of streets or adjacent to parks, playgrounds, the Golf Course, or other facilities where the rear yard or portion of the lot is visible to full public view shall construct and maintain a drying yard or other suitable enclosure to screen the following from public view:

the drying of clothes, yard equipment, woodpiles or storage piles which are incident to the normal residential requirements of a typical family.

In the event of default on the part of the Owner or occupant of any Lot in observing the above requirements, or any of them, such default continuing after ten (10) days written notice thereof, Declarant or its successors and assigns may, at its option, without liability to the Owner or occupant in trespass or otherwise, enter upon said Lot and cause to be cut such weeds and grass or do any other thing necessary to secure compliance with this Declaration in order to place said Lot in a neat, attractive, healthful and sanitary condition, and may charge the Owner or occupant of such Lot for the cost of such work, by submitting a statement setting forth the cost of such work to the Owner or occupant of such Lot. The Owner or occupant, as the case may be, agrees by the purchase or occupancy of such Lot to pay such statement immediately upon receipt thereof. Each such assessment, together with interest thereon at the rate of ten percent (10%) per annum and reasonable cost of collection, shall be a charge and continuing lien upon such Lot, as well as the continuing personal obligation of the Owner of such Lot at the time of such assessment. The lien securing such assessment shall be second, subordinate and inferior to all liens, present and future, give, granted and created by or at the instance or 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 improvements of any such lot.

Section 8.25. Utilities. Each residence situated on a Lot shall be connected to the water and sewer lines as soon as practicable after same are available at the Lot line.

Section 8.26. Drainage. Neither the Declarant or the Association, or any of their successors or assigns, shall be liable for any loss of use of, or damage done to any shrubbery, trees, flowers, improvements, fences, walks, sidewalks, driveways, or buildings of any type or the contents thereof on any Lot whatsoever in the Subdivision caused by any water levels, rising waters, or drainage waters. No Owner shall do anything to cause or which causes the interruption or alteration of the planned drainage of the Properties as prescribed by Declarant or by anyone acting for Declarant in this particular matter.

Section 8.27. Access. No driveways or roadways may be constructed on any Lot to provide access to any adjoining Lot or other portion of the Properties unless the express written consent of the Architectural Control Committee first shall have been obtained.

Section 8.28. Oil, Water and Mining Operations. No water well drilling, oil drilling or development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon the surface of any Lot. No derrick or other structure designed for use in boring for oil and natural gas shall be erected, maintained or permitted upon any Lot.

Section 8.29. Use of Common Properties. There shall be no obstruction of any part of the Common Properties, which are intended to remain unobstructed for the reasonable use and enjoyment thereof. No Owner shall appropriate any part of the Common Properties to his exclusive use, nor shall any Owner do anything which would violate the easements, rights, and privileges of any Owner in regard to any

portion of the Common Properties which is intended for the common use and benefit of all Owners. Except as may be herein permitted, no Member shall plant, place, fix, install or construct any vegetation, hedge, tree, shrub, fence, wall, structure, or improvements or store any of his personal property on the Common Properties or any part thereof without the written consent of the Association first being obtained. The Association shall have the right to remove anything placed on the Common Properties in violation of the provisions of this Section and to recover the cost of such removal from the Owner responsible, and to have a lien on such Owner's Lot to secure the payment of such cost, all on the same terms and provisions as are set forth in Article VI.

Section 8.30. Exempt Property. Notwithstanding any provisions herein to the contrary, the Common Properties shall not be subject to or burdened by the building and use restrictions set forth in this Article IX, except to the extent same are made specifically applicable to the Common Properties.

Section 8.31. Retaining Walls. Retaining walls may be constructed to achieve even grades for landscaping, pools, driveways or house foundations, any such retaining wall must be uniform in height with a flat top and must be constructed of compatible masonry materials approved by the Architectural Control Committee, which shall be consistent with the overall appearance of the residential dwelling. No railroads ties or landscape timber retaining walls shall be permitted.

Section 8.32. Wall Surface Above Garage Doors. All wall surface above the garage doors shall be masonry to match the residence.

Section 8.33. Monitored Fire Alarms Required for Cul-de-Sacs. Homes located on cul-de-sacs must have a fire alarm system that (a) is installed by a certified fire alarm contractor and (b) is monitored 24 hours a day by a reputable monitoring company that will call the fire department when the alarm is triggered. The Lots that require the fire alarm system and monitoring are as follows: Block 1, Lots 7, 8, 15, 18, 19, 24, 25, 26, 27, 32, 33, 39, 40, and 41.

## ARTICLE IX

### General Provisions

Section 9.1. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association or the Owner of any land subject to this Declaration or any Supplemental Declaration, their respective legal representatives, heirs, successors and assigns, for an initial term commencing on the effective date hereof and ending December 31, 2020. During such initial term (a) the covenants and restrictions contained in all Articles hereof other than Articles VIII and IX may be changed or terminated only by an instrument signed by the then Owners of not less than ninety percent (90%) of the Lots in the Properties and properly recorded into the appropriate records of Denton County, Texas. Upon the expiration of such initial term, all of the covenants and restrictions of this Declaration (as changed, if changed), and the enforcement rights relative thereto, shall be automatically extended for successive periods of ten (10) years. During such ten (10) year extension periods, (a) the covenants and restrictions contained in all Articles hereof other than Articles VIII and IX may be changed or terminated only by an instrument signed by the then Owners of not less than fifty-one percent (51%) of all the Lots in The Subdivision and properly recorded in the appropriate records of Denton County, Texas and (b) the covenants and restrictions contained in Articles VIII and IX hereof may be changed or terminated only by an instrument signed by the then Owners of not less than fifty-one percent (51%) of all the Lots in the Properties and properly recorded in the appropriate records of Denton County, Texas.

Section 9.2. Enforcement. The Association, as a common expense to be paid out of the Maintenance Fund, or any Owner at his own expense, shall have the right to enforce, by proceedings at law or in equity, all restrictions, covenants, conditions, reservations, liens, charges, assessments, and all other provisions set out in this Declarant. Failure of the Association or of any Owner to take any action upon any breach or default of or in respect to any of the foregoing shall not be deemed a waiver of their right to take enforcement action any subsequent breach or default.

Section 9.3. Amendments by Declarant. The Declarant shall have and reserves the right at any time and from time to time, without the joinder or consent of any other party to amend this Declaration by any instrument in writing duly signed, acknowledged, and filed for record for the purpose of correcting any typographical or grammatical error, ambiguity or inconsistency appearing herein, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development, as evidenced by this Declaration and all Supplemental Declarations, and shall not impair or affect the vested property or other rights of any Owner or his mortgagee.

Section 9.4. Interpretation. If this Declaration or any word, clause, sentence, paragraph, or other part hereof shall be susceptible of more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration and all Supplemental Declarations shall govern.

Section 9.5. Omissions. If any punctuation, word, clause, sentence, or provision necessary to give meaning, validity, or effect to any other word, clause, sentence, or provision appearing in this Declaration shall be omitted herefrom, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provisions shall be supplied by inference.

Section 9.6. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 9.7. Gender and Grammar. The singular, whenever used herein, shall be construed to mean the plural, when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, males or females, shall in all cases be assumed as though in each case fully expressed.

Section 9.8. Severability. Invalidation of any one or more of the covenants, restrictions, conditions, or provisions contained in this Declaration, or any part thereof, shall in no manner affect any of the other covenants, restrictions, conditions, or provisions hereof, which shall remain in full force and effect.

## ARTICLE X

### Powers Granted to the Town of Trophy Club

Section 10.1. The Town of Trophy Club, Texas (the "Town") shall have the right to perform, but not the obligation, the maintenance obligations of the Association with respect to the Common Properties, if the Association fails to reasonably perform such maintenance obligations within ten (10) days after receipt by the Association of written notice from the Town stating the nature and extent of the Association's failure to maintain the Common Properties.

Section 10.2. Upon assuming such maintenance obligations, the Town may collect all maintenance assessments in accordance with the procedures specified herein and in any bylaws or articles of incorporation of the Association, expending an amount of such assessments as reasonably necessary, in the sole opinion of the Town, to perform the Association's maintenance obligations which it has failed to perform, and remitting the balance thereof to the Association forthwith.

Section 10.3. The Declarant and the Association understand and agree that the Covenants and Restrictions contained herein are not intended to restrict or limit the rights of the Town to exercise its legislative and governmental rights, duties and powers insofar as zoning of the Properties is concerned.

Terra/Knoll, Ltd.

By: Terra Land & Cattle, Ltd.

Its: General Partner

By: Terra G P Management, L.L.C.,  
a Texas limited liability company

Its: General Partner

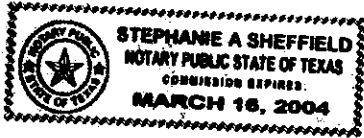
By: M. Paul Spain  
M. Paul Spain, President

ACKNOWLEDGEMENT

STATE OF TEXAS §  
COUNTY OF TARRANT §

This instrument was acknowledged before me on the 11<sup>th</sup> day December, 2002 by M. Paul Spain, President of Terra G P Management, L.L.C., a Texas limited liability company the General Partner of Terra Land & Cattle, Ltd., a Texas limited partnership, the General Partner of Terra/Knoll, Ltd., a Texas limited partnership.

Stephanie Sheffield  
Notary Public, State of Texas



LIENHOLDER'S CONSENT AND SUBORDINATION

The undersigned Lender is the holder of certain liens against foregoing described Subdivision, including a lien evidenced by that certain Deed of Trust (with Security Agreement and Assignment of Rents) dated December 5, 2001, recorded at Volume ~~X~~, Page \_\_\_\_\_, Real Property Records, Denton County, Texas (which together with all related liens and modifications are collectively referred to herein as the "Deed of Trust").

Lender consents to the foregoing Declaration of Covenants and Restrictions for the Knoll and agrees that the lien of the Deed of Trust together with any other liens or vendor liens held by Lender in regard to the Subdivision shall be subordinate to the terms of the ~~Easement~~ Covenants and Restrictions.

INSTRUMENT NO.  
\* 2002-R0000197

FIRST NATIONAL BANK OF WICHITA FALLS, N.A.

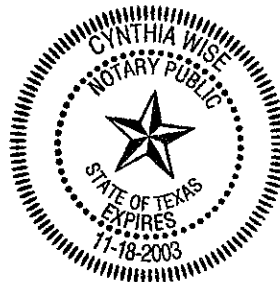
By: R. Curtis Hamilton  
Print Name: R. Curtis Hamilton  
Print Title: Vice President

ACKNOWLEDGEMENT

STATE OF TEXAS §  
COUNTY OF TARRANT §

This instrument was acknowledged before me on the 11<sup>th</sup> day of December, 2002 by R. Curtis Hamilton, the Vice President of FIRST NATIONAL BANK OF WICHITA FALLS, N.A.

Cynthia Wise  
Notary Public, State of Texas

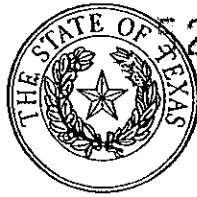


THE KNOLL HOMEOWNERS ASSOCIATION, INC.

ARTICLES OF INCORPORATION

AND

BYLAWS



239 01361

Gwyn Shea  
Secretary of State

## Office of the Secretary of State

### CERTIFICATE OF INCORPORATION OF

The Knoll Homeowners Association, Inc.  
Filing Number: 800064331

The undersigned, as Secretary of State of Texas, hereby certifies that Articles of Incorporation for the above named corporation have been received in this office and have been found to conform to law.

Accordingly, the undersigned, as Secretary of State, and by virtue of the authority vested in the Secretary by law, hereby issues this Certificate of Incorporation.

Issuance of this Certificate of Incorporation does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 03/14/2002

Effective: 03/14/2002



A handwritten signature in cursive script that reads "Gwyn Shea".

Gwyn Shea  
Secretary of State

## ARTICLES OF INCORPORATION

FILED  
In the Office of the  
Secretary of State of Texas

OF

MAR 14 2002

## THE KNOLL HOMEOWNERS ASSOCIATION, INC. Corporations Section

I, the undersigned natural person of the age of eighteen (18) years or more, acting as the sole incorporator of a non-profit corporation under the Texas Non-Profit Corporation Act (the "Act"), do hereby adopt the following articles of incorporation for such corporation.

## ARTICLE I

The name of the corporation is: The Knoll Homeowners Association, Inc., hereinafter sometimes called the "corporation" or the "Association."

## ARTICLE II

The Association is a non-profit corporation and has no capital stock.

## ARTICLE III

The period of duration of the corporation is perpetual.

## ARTICLE IV

The Association does not contemplate gain or profit to its Members. The Association is a homeowners association for a single family residential development known as "The Knoll" located in the Town of Trophy Club, Denton County, Texas, sometimes hereinafter referred to as the "Subdivision". The purposes for which the corporation is organized are:

- (a) to operate, manage, maintain and administer the affairs of the Subdivision pursuant to that certain Declaration of Covenants and Restrictions to be recorded in the Real Property Records of Denton County, Texas, as it may from time to time be amended or supplemented (the "Declaration"), said Declaration being incorporated herein by reference and made a part hereof for all purposes;
- (b) to acquire, transfer, manage, maintain and care for the property consisting of the Common Properties or other common area as described in the Declaration;

- (c) to enter into and perform any contract and to exercise all powers which may be necessary or convenient to the operation, management, maintenance and administration of the affairs of the Subdivision in accordance with the Declaration;
- (d) to promote the health, safety and welfare of the residents, tenants and occupants within the Subdivision;
- (e) to exercise the powers and privileges and to perform all of the duties and obligations imposed on the corporation in accordance with the Declaration, as such Declaration may hereafter be amended, including, but without limitation, to fix, levy, collect and enforce payment of assessments for such purposes, as set forth in the Declaration, to pay all expenses in connection therewith and all expenditures incident to the conduct of the administration and business of the Subdivision and all licenses, taxes or other charges as are levied or assessed against the corporation and the Common Properties; and
- (f) to buy, sell and deal in real property, personal property and services, to have and to exercise any and all powers, rights and privileges which a corporation organized under the non-profit corporation laws of the State of Texas by law may or hereafter have to exercise.

The aforesaid statement of purposes shall be construed as a statement of both purposes and of powers and shall be broadly construed to effectuate its intent.

#### ARTICLE V

The name of the initial registered agent and the street address of the initial registered office of the corporation are as follows:

Name	Address
Edward J. Fields Jr.	Akin, Gump, Strauss, Hauer & Feld 1700 Pacific Avenue, Suite 4100 Dallas, Texas 75201-4618

#### ARTICLE VI

The terms used herein shall have the same meaning as set forth in the Declaration.

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot or Living Unit and only such persons or entities shall be Members of the Association. Membership

in the corporation shall be appurtenant to and may not be separated from ownership of any Lot or Living Unit in the Subdivision. Ownership of such Lot or Living Unit shall be the sole qualification for membership in the corporation. The corporation may (but shall not be required to) issue certificates evidencing membership herein.

Voting rights of the Members are described in the Declaration or as set forth in the Bylaws of the corporation. Cumulative voting in the election of members of the Board of Directors or in other exercises of the right to vote is prohibited.

#### ARTICLE VII

The name and street address of the incorporator is:

Name	Address
Edward J. Fields Jr.	Akin, Gump, Strauss, Hauer & Feld 1700 Pacific Avenue, Suite 4100 Dallas, Texas 75201-4618

#### ARTICLE VIII

The number of directors constituting the initial Board of Directors is three (3). The number of Directors shall be set forth in the Bylaws and may be changed by amendment of the Bylaws of the Association. The names and addresses of the persons who are to act in the capacity of initial Directors are:

Bobby Harrell  
Terra Companies  
2740 Fuller Wiser  
Eules, Texas 76039

M. Paul Spain  
Terra Companies  
2740 Fuller Wiser  
Eules, Texas 76039

Thomas C. Bain  
Terra Companies  
2740 Fuller Wiser  
Eules, Texas 76039

**ARTICLE IX**

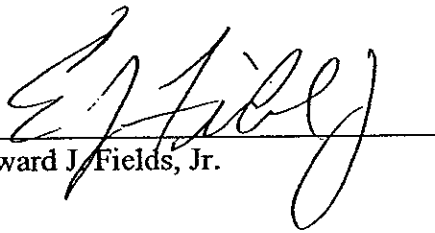
To the fullest extent permitted by applicable law, as the same exists or may hereafter be amended: (a) an officer or director of the Association shall not be liable to the Association or its Members for monetary damages for an act of omission in the capacity as an officer or director; and (b) the Association shall indemnify any person who is a party to any threatened, pending or completed action, suit or proceeding (by reason of the fact that he is or was an officer or director of the Association) against any liability, causes of action, judgments, damages, settlements and reasonable expenses (including attorneys' fees and court costs) actually and reasonably incurred by him in connection with such action, suit or proceeding. Any repeal or amendment of this Article by the Association or by changes in applicable law shall, to the extent permitted by applicable law, be prospective only, and shall not adversely affect any limitation on liability or indemnity at the time of such repeal or amendment.

**ARTICLE X**

In accordance with the provisions of Article 1396-9.10 of the Act, any action required by the act to be taken at a meeting of the directors or members of the association, or any action that may be taken at a meeting of the directors, any committee thereof or the members of the Association may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by a sufficient number of directors, committee members or members, as the case may be, as would be necessary to take such action at a meeting at which all of the directors, committee members or members, as the case may be, were present and voted.

5239 01366

Executed as of the 12th day of March, 2002.

  
Edward J. Fields, Jr.

**BYLAWS**  
**OF**  
**THE KNOLL HOMEOWNERS ASSOCIATION, INC.**  
**A TEXAS NON-PROFIT CORPORATION**

The name of the association is THE KNOLL HOMEOWNERS ASSOCIATION, INC. (the "Association"). The principal office of the Association shall initially be located at 2740 Fuller Wisser, Euless, Texas 76039 (the location may be changed from time to time, as determined by the Board of Directors).

**ARTICLE I**

**PURPOSE AND PARTIES**

**Section 1.01. Purpose.** The purpose for which the Association is formed is to operate, manage, maintain and administer the affairs of a single family residential subdivision known as "The Knoll" located in the Town of Trophy Club, Denton County, Texas (sometimes hereinafter referred to as the "Property"), pursuant to that certain Declaration of Covenants and Restrictions (the "Declaration") to be recorded in the Real Property Records of Denton County, Texas, said Declaration and all amendments, modifications, supplements, and restatements thereof being incorporated herein by reference and made a part hereof for all purposes.

**Section 1.02. Parties.** All present or future Owners, tenants, future tenants of any Lot or Living Unit, or any other person who might use in any manner the facilities of the Property are subject to the provisions and any regulations set forth in these Bylaws. The mere acquisition, lease or rental of any Lot or Living Unit or the mere act of occupancy of an Lot or Living Unit will signify that these Bylaws are accepted, approved, ratified, and will be complied with.

**ARTICLE II**

**DEFINITIONS**

The definitions contained in the Declaration are incorporated herein by reference and made a part hereof for all purposes.

**ARTICLE III**  
**MEMBERSHIP AND VOTING RIGHTS**  
**IN THE ASSOCIATION**

**Section 3.01. Membership.** Each and every Owner shall automatically be and must remain a Member of the Association in good standing, subject to the terms of the Declaration, Articles of Incorporation, Bylaws of the Association and the Association rules.

**Section 3.02. Transfer.** Membership of an Owner in the Association may not be severed from or in any way transferred, pledged, mortgaged or alienated except upon the sale or assignment of said Owner's interest in all or any part of any Lot or Living Unit and then only to the purchaser or assignee as the new Owner thereof. Such membership shall not be severed by the encumbrance by an Owner of all or any part of the Property. Any attempt to make a prohibited severance, transfer, pledge, mortgage or alienation shall be void and of no further force or effect. Any transfer of the fee title to a lot, tract or parcel of real estate out of or a part of the Property shall automatically operate to transfer the membership to the new Owner thereof. In the event an Owner should fail or refuse to transfer the membership in the Association registered in such Owner's name to the transferee of such Owner's interest in all or any part of any Lot or Living Unit, the Association shall have the right to record the transfer upon the books and records of the Association.

**Section 3.03. Membership and Assessments.** Each Member of the Association shall be required to pay assessments in accordance with the Declaration.

**Section 3.04. Class of Voting Membership and Voting Rights.** The Association shall have classes of voting membership and voting rights as set forth in the Declaration.

**Section 3.05. Suspension of Voting Rights.** The voting rights of any Member may be suspended by the Board of Directors of the Association for any period during which any Assessment remains past due.

**Section 3.06. Multiple Owner Votes.** Votes hereunder may not be cast on a fractional basis between multiple Owners.

**ARTICLE IV**  
**MEETINGS OF MEMBERS**

**Section 4.01. Annual Meetings.** The first annual meeting of the Members shall be held within one year from the date of incorporation of the Association. Subsequent annual meetings of the Members shall be held in the same month of each year thereafter on a date chosen by the Board of Directors.

**Section 4.02. Special Meetings.** Special meetings of the Members may be called at any time by the Declarant or by a majority of a quorum of the Board of Directors or upon receipt by

the Board of a written request for a special meeting signed by Members representing at least sixty percent (60%) of the outstanding votes of the Association, regardless of class.

**Section 4.03. Notice.** Written notice of all meetings stating the place, day and hour of the meeting, and the purpose or purposes for which the meeting is called shall be delivered not less than five (5) or more than seventy-five (75) days before the meeting to the then Members of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the Member at the address that appears in the records of the Association, with postage thereon prepaid.

**Section 4.04. Quorum.** The presence of Members, or Members represented by proxy, holding one-tenth (1/10) or more of the votes of each class of membership shall constitute a quorum at a meeting of Members for any action except as otherwise provided in the Articles of Incorporation, the Declaration or these Bylaws. If a quorum is not present or represented, a majority in interest of the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid is present or represented. At such adjourned meeting any business may be transacted which might have been transacted at the initial meeting. The vote of the Members holding a majority of the votes represented at a meeting at which a quorum is present shall be required for any action taken unless the vote of a greater number is required by law, the Articles of Incorporation, the Declaration, or these Bylaws.

**Section 4.05. Proxies.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary at or before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot or Living Unit, or upon receipt of notice by the Secretary of the Board of the death or judicially declared incompetence of such Member.

**Section 4.06. Action Without Meeting By Written Ballot.** Any action which may be taken by the vote of the Members at a regular or special meeting, may be taken without a meeting. Approval without a meeting shall be valid if the number of votes cast, obtained in writing, equals or exceeds the number that would be required if the action was taken at a meeting where all of the Members were present.

## ARTICLE V

### BOARD OF DIRECTORS

**Section 5.01. Number.** The affairs of the Association shall be managed by a Board of three (3) directors, all of whom must be Owners or representatives of Owners (where such Owner is not an individual person) except for the first directors.

**Section 5.02. Term of Office.** At the first meeting of the Association, the Members shall elect three (3) directors, one for a term of three years, one for a term of two years, and one for a term of one year. At each annual meeting thereafter the Members shall newly elect one director for a one year term to replace the director whose term has expired.

**Section 5.03. Removal.** An individual director may be removed prior to the expiration of his term of office upon the vote of Members holding at least 67% of the outstanding votes of the Association.

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

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

(b) **Vacancies by Removal.** Vacancies created by the removal of a director shall be filled only by the vote or written assent of Members holding 51% of the outstanding notes of the Association.

**Section 5.05. Indemnification of Officers and Directors.** Each Director and Officer shall be indemnified by the Association and the Members against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him or her by judgment or settlement in connection with any proceeding to which he or she may be a party, or may become involved, by reason of being or having been a Director or Officer of the Association, except in cases of fraud, gross negligence or bad faith of the Director or Officer in the performance of duties.

**Section 5.06. Nomination.** Nomination for election to the Board shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board not less than thirty days prior to each annual meeting of the Members, to serve until the close of such annual meeting. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations must be made from among Members.

**Section 5.07. No Compensation.** No Director shall receive compensation for any service that Director may render to the Association. However, any Director may be reimbursed for actual expenses incurred in the performance of the Director's duties.

**Section 5.08. Regular Meetings.** Regular meetings of the Board shall be held at least quarterly at such place within the Property, and at such hour as may be fixed from time to time by resolution of the Board. Notice of the time, day, agenda and place of meeting shall be delivered either personally, by mail, by telephone or telegraph to the Board members not less than four days prior to the meeting. However, notice of a meeting need not be given to Board members who have signed a waiver of notice or a written consent to the holding of the meeting.

**Section 5.09. Special Meetings.** Special meetings of the Board shall be held when called by written notice signed by the President of the Association, or by any two Directors other than the President. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be sent to all Directors by mail not less than 72 hours prior to the scheduled time of the meeting, provided that notice of the meeting

need not be given to Board members who have signed a waiver of notice or a written consent to the holding of the meeting. An officer of the Association shall make reasonable efforts to notify all directors of the meeting by telephone.

**Section 5.10. Quorum.** A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act performed or decision made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

**Section 5.11. Action Without Meeting.** Any action which may be taken by the vote of the Directors, may be taken without a meeting. Approval without a meeting shall be valid if a consent is obtained by the number of Directors, in writing, that equals or exceeds the number of votes that would be required to authorize the action if a meeting were held at which all of the Directors were present.

**Section 5.12. Powers and Duties.** The Board of Directors shall have the powers and duties enumerated in the Declaration.

**Section 5.13. Disciplinary Procedure.** The Association may impose monetary penalties, temporarily suspend an Owner's rights as a Member of the Association, or impose other appropriate discipline for failure to comply with the governing instruments, provided that any imposition of fines, discipline or suspensions of rights be done according to the following procedure. The Association shall give the accused Member a 20 days written notice of the action to be taken, stating the reasons therefore, and an opportunity to be heard by the Board with respect to the alleged violation. The notice shall be given personally to such Member or sent by registered mail to the last address of such Member as shown on the records of the Association. The opportunity to be heard may, at the election of such Member, be oral or in writing. If the Member desires to be heard orally, then the Board will designate a committee composed of not less than two of the three Board Members to meet with the Member. The Board shall have exclusive power and authority to reaffirm, alter, or decide that the proposed disciplinary action not be imposed.

## ARTICLE VI

### OFFICERS AND THEIR DUTIES

**Section 6.01. Enumeration of Officers.** The officers of the Association shall be as follows:

- (a) President, who shall at all times be a member of the Board;
- (b) Vice-President, who may be a member of the Board;
- (c) Secretary, who may be a member of the Board;
- (d) Treasurer, who may be a member of the Board; and

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

**Section 6.02. Election of Officers.** The election of officers shall take place annually at the meeting of the Board following each annual meeting of the Members.

**Section 6.03. Term.** The officers of the Association shall hold office for one year unless such officer shall sooner resign, or shall be removed, or otherwise disqualified to serve.

**Section 6.04. Special Appointments.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, having such authority, and perform such duties as the Board may, from time to time, determine.

**Section 6.05. Resignation and Removal.** Any officer may be removed from office by the Board with or without cause. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 6.06. Vacancies.** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the replaced officer.

**Section 6.07. Multiple Offices.** The offices of the Association may be held by the same person. No person shall simultaneously hold more than one of the other offices except in the case of special offices created pursuant to the section on "Special Appointments" in this Article.

**Section 6.08. Duties.** The duties of the officers are as follows:

(a) **President.** The President shall preside at all meetings of the Board; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall be designated as one of the officers authorized to co-sign all checks and promissory notes.

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

(c) **Secretary.** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board.

(d) **Treasurer.** The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; shall be designated as one of the officers authorized to co-sign all checks and promissory notes of the Association; shall keep proper books of account.

**ARTICLE VII****FINANCIAL REPORTS**

**Section 7.01.** The following financial statements for the Association shall be prepared and distributed at a regular or special meeting of the Members and also to each Member requesting the same in writing.

(a) **Budget.** A pro forma operating statement (budget) for each fiscal year shall be distributed to each Member before the beginning of the fiscal year and shall include projected expenses for the Association.

(b) **Annual Report.** An annual report consisting of the following shall be distributed within 60 days after the close of the fiscal year:

- (i) A balance sheet as of the end of the fiscal year;
- (ii) An operating or income statement for the fiscal year; and
- (iii) A statement of any changes in financial position for the fiscal year.

**ARTICLE VIII****BOOKS AND RECORDS**

**Section 8.01. Inspection by Members.** The membership register, books of account and minutes of meetings of the Members, of the Board and of committees shall be made available for inspection and copying by any Member of the Association, or by the Member's appointed representative, at any reasonable time and for a purpose reasonably related to the Member's interest, at the office of the Association or at such other place within the Property as the Board shall prescribe.

**Section 8.02. Rules for Inspection.** The Board shall establish reasonable rules with respect to:

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

**Section 8.03. Inspection by Directors.** Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical property owned by the Residential Association. The rights of inspection by a Director includes the right to make extra copies of documents.

**ARTICLE IX****AMENDMENTS**

**Section 9.01. Amendment of Bylaws or the Articles of Incorporation.** Any provision of these Bylaws or the Articles of Incorporation may be amended at a regular or special meeting of the Members by a vote (in person or by proxy) or written consent of the Members holding 51% of the outstanding votes of the Association, unless otherwise specified in the Declaration, Bylaws or Articles.

**ARTICLE X****MISCELLANEOUS**

**Section 10.01. Fiscal Year.** The fiscal year of the Association shall be from time to time determined by the Board of Directors of the Association.

**Section 10.02. Interpretation.** In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control. An interpretation by the Board of Directors shall be final and binding.

**AFTER RECORDING RETURN TO:**

**AKIN, GUMP, STRAUSS, HAUER & FELD**  
1700 Pacific Ave., Suite 4100  
Dallas, Tx. 75201-4618

**ATTN: Edward J. Fields, Jr.**

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL OR USE  
OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS  
INVALID AND UNENFORCEABLE UNDER FEDERAL LAW  
THE STATE OF TEXAS }  
COUNTY OF DENTON }

I hereby certify that this instrument was FILED in the File Number sequence on  
the date and the time stamped hereon by me; and was duly RECORDED in the  
Official Public Records of Real Property of Denton County, Texas on

DEC 26 2002

*Cynthia Mitchell*

COUNTY CLERK  
DENTON COUNTY, TEXAS



Filed for Record in:  
DENTON COUNTY, TX  
CYNTHIA MITCHELL, COUNTY CLERK

On Dec 26 2002  
At 10:30am

Receipt #: 72264  
Recording: 81.00  
Doc/Mgmt: 6.00  
Doc/Num: 2002-R0165871  
Doc/Type: RST  
Deputy -ELIZABETH