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Donna S. Lindsey Unit 27

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STEWART TITLE HOUSTON DIVISION

THE LAKES ON ELDRIDGE
DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS

502-44-0412

STATE OF TEXAS §
COUNTY OF HARRIS § KNOW ALL PERSONS BY THESE PRESENTS:

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this 29th day of DECEMBER, 1994 by The Lakes on Eldridge, Ltd., a limited partnership formed pursuant to the applicable provisions of the Texas Revised Limited Partnership Act (hereinafter sometimes referred to as "Declarant"),

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WITNESSETH:

WHEREAS, the Declarant is the owner of the land within The Lakes on Eldridge, a subdivision of land in Harris County, Texas, which presently is composed of Section One (1) through and including Section Six (6), according to the six (6) plats thereof recorded under Film Code Numbers 363140, 363143, 363146, 363149, 364002 and 364005 in the Map Records of Harris County, Texas (all of such land so owned and the improvements now or hereafter situated thereon being hereinafter referred to as the "Property"); and

WHEREAS, it is the desire and intention of Declarant to restrict said Property according to a common plan as to use, permissible construction, and common amenities so that all land within the Property shall be benefitted and each successive owner of all or a part of said land shall be benefitted by preserving the values and the character of said land; and

WHEREAS, Declarant desires to take advantage of the geographical features of the Property and proposes to establish a residential living environment which is dependent upon and in furtherance of aesthetic considerations in order to create a residential community having common areas, facilities and landscaping, and to provide for the maintenance, repair, operation and improvement of same; and, to this end, desires to subject the Property to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, to be binding upon each owner of a Lot or Lots within the Property, and which restrictions, covenants and conditions will also comply with the requirements of local governmental authorities and the zoning and subdivision ordinances and regulations of Harris County, Texas; and

WHEREAS, Declarant has deemed it desirable, and in the best interests of the residents and future residents of the Property, for the efficient preservation of the values and amenities in the Property and the maintenance, repair, operation and improvement of the common areas, facilities and landscaping, to create an entity

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" EXHIBIT D "

to which would be delegated and assigned the powers of maintaining and administering same and enforcing these restrictions, covenants, easements, charges and liens, and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has caused to be incorporated The Lakes on Eldridge Community Association, a Texas non-profit corporation, and has designated it as such entity; and

NOW, THEREFORE, Declarant, for and in consideration of, and expressly for the benefit of, and to bind, its successors in interest, does hereby agree and declare that the Property, including such additions thereto as may hereafter be made pursuant to Article I, Section 3 hereof, shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, which shall run with the land and shall be binding upon all parties having any right, title, or interest in or to the Property, or any part thereof, and their heirs, successors, representatives and assigns. The covenants, conditions, restrictions, easements, charges and liens hereinafter set forth are covenants running with the land at law as well as in equity.

ARTICLE I.

GENERAL

Section 1. Definitions. The following words, when used in this Declaration, unless the context shall prohibit, shall have the following meanings:

- a. "Area", when followed by a Roman numeral, shall mean and refer to a specific location which shall have been described and defined either in Section 2 of this Article I or in one of the Supplementary Declarations provided for in Section 3 of this Article I.
- b. "Association" shall mean and refer to The Lakes on Eldridge Community Association, Inc., a Texas non-profit corporation, which will have the power, duty and responsibility of maintaining and administering the Common Areas, Common Facilities, Common Personalty, Detention Areas and all Landscaping in the Common Areas, and administering and enforcing these covenants, conditions and restrictions and collecting and disbursing the assessments and charges hereinafter prescribed.
- c. "Builder" shall mean and refer to any person or entity undertaking the construction of a residence on a Lot.

- d. "Common Areas" shall mean and refer to areas of land owned, leased or used by the Association, and/or easement areas for walls or fences, lakes/detention areas, entryways, access or walkways, recreational facilities, and other purposes benefitting the Members, including any improvements and landscaping located thereon, for the common use, enjoyment and benefit of the Members of the Association.
- e. "Common Facilities" shall mean and refer to the recreational buildings and appurtenances, fountains, entry systems, walls, fences, control facilities, parking areas, irrigation systems, lighting facilities, flagpoles, identification markers, playground and appurtenances, swimming pool, facilities associated with the lakes/detention areas, and the like owned, leased or used by the Association in fulfilling its duties and for the benefit of all Members of the Association or the like located within the Common Areas.
- f. "Common Personalty" shall mean and refer to any and all items of personal property owned or leased by the Association for the benefit of all Members or used by the Association in fulfilling its functions and carrying out its duties and purposes hereunder.
- g. "Declarant" shall mean and refer to The Lakes on Eldridge, Ltd. and its successors and assigns provided that an assign is designated in writing by The Lakes on Eldridge, Ltd. as an assign of all, or part, of the rights of Declarant.
- h. "Landscaping" shall mean and refer to growing plants, including grass, plantings, vines, ground cover, trees, hedges, shrubs, flowers and the like.
- i. "Lot" shall mean and refer to any parcel, plot or tract of land identified by a lot and block number as shown upon any recorded subdivision map, plat, replat, or revision of the Property, as said recorded subdivision maps or plats may be amended and revised from time to time.
- j. "Member" shall mean and refer to each Owner of a Lot or an undivided interest therein, who shall be a Member of the Association as provided in Article II hereof.
- k. "Occupant" shall mean and refer to any person occupying or otherwise using a Lot and/or any house or dwelling situated on such Lot (including lessees).

1. "Owner" shall mean and refer to the owner of record (including Declarant), whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation.
- m. "Property" shall mean and refer to the real property (including improvements) described in Section 2 of this Article I, and additions thereto, as are subjected to this Declaration or any Supplementary Declaration under the provisions of Section 3 of this Article I.

Section 2. Property Subject to Declaration. ^{One through Six} The real property covered by this Declaration is all property in ⁱⁿ The Lakes on Eldridge, a subdivision in Harris County, Texas, according to the plats of ~~various~~ ~~Sections~~ ~~thereof~~ recorded under Film Code Numbers 363140, 363143, 363146, 363149, 364002 and 364005 of the Map Records of Harris County, Texas. For purposes of this Declaration such real property is designated as Area I. All of the Property and any right, title or interest therein shall be owned, held, leased, sold, transferred and/or conveyed by Declarant, and any subsequent owner of all or any part thereof, subject to this Declaration and the covenants, restrictions, conditions, easements, charges and liens set forth herein. The covenants, restrictions, conditions, easements, charges and liens herein set forth are covenants running with the land at law as well as in equity, and shall constitute a general plan for the benefit of and be enforceable by all present and future Owners of any Lot or Lots in the Property and their heirs, personal representatives, successors and assigns, as well as by Declarant and the Association.

Section 3. Additional Property Subject to Declaration. Additional property may be added to, or made subject to this Declaration and the covenants, restrictions, conditions, easements, charges and liens set forth herein, in the following manner:

- a. If Declarant, or any other person, firm or corporation owned or controlled by Declarant are the owners of any property which they desire to add to the scheme of this Declaration, they may do so by filing of record a Supplementary Declaration, which shall extend the scheme of this Declaration and the covenants and restrictions set forth herein to such property, PROVIDED HOWEVER, that such covenants and restrictions as applied to the property which is so added may be altered or modified by said Supplementary Declaration, and PROVIDED FURTHER, if property is proposed to be added to the scheme of this Declaration by any person, firm, or corporation not owned or controlled by Declarant, the Association, acting through its Board of Directors, must give written consent thereto. Property may be added to the scheme of this

Declaration regardless of whether or not such property or properties are contiguous to the Property. Each Supplementary Declaration shall include a geographical description of the property added and shall designate said area with the term "Area" followed by a Roman numeral so as to differentiate each respective area from other areas within the Property.

- b. Upon a merger or consolidation of the Association with another association, its properties, rights, and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association may, by operation of law, be added to the Property, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants, restrictions, easements, charges and liens established by this Declaration with the Property together with the covenants, restrictions, easements, charges and liens established upon any other properties as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the covenants, restrictions, easements, charges and liens established by this Declaration pertaining to the Property except as hereinafter provided.

ARTICLE II.

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Each and every person, persons, or legal entity who shall own any Lot in the Property, shall automatically be, and must remain, a Member of the Association. Such membership shall be appurtenant to each Lot and may not be severed from or held separately therefrom. PROVIDED, that any person or entity who holds such an interest merely as security for the performance of any obligation shall not be a Member.

Section 2. Classes of Members. The Association shall have two classes of membership:

Class A. Class A Members shall be all those persons or legal entities who own a Lot with the exception of Declarant. After the Conversion Date (hereinafter defined), Declarant shall also become a Class A Member to the extent that Declarant is the Owner of one or more Lots. When two or more persons or entities hold undivided interests in any Lot, all such persons or entities shall be Class A members, and the vote for such part of the Property owned by such Members shall be exercised

as they, among themselves, determine, but in no event shall more than one vote be cast with respect to each Lot in which such Members own undivided interests.

Class B. The Class B Member shall be Declarant or its successor or assign. The Class B membership of Declarant shall cease and become converted to Class A membership upon the occurrence of the earlier of the following (the "Conversion Date"):

- a. At January 1, 2005; or
- b. Upon the sale by Declarant of all Lots within the Property; or
- c. Such earlier date as may be established by Declarant in a written instrument recorded by Declarant in the Official Public Records of Real Property of Harris County, Texas.

Section 3. Voting Rights. The Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. Prior to the Conversion Date, the Class B Member shall be entitled to five (5) votes for each Lot it owns. From and after the Conversion Date, the Class B Member shall be entitled to one (1) vote for each Lot in which it holds the interest required for Association membership. As stated hereinabove, where more than one person or entity holds such interest in any Lot, all such persons shall be Members, and the vote for such Members shall be exercised as the several parties shall determine among themselves.

Section 4. Termination of Membership. The membership of a person or entity in the Association shall terminate automatically whenever such person or entity ceases to be an Owner, except that such termination shall not release or relieve any such person or entity from any liability or obligation incurred under or in any way connected with the Association or this Declaration during the period of ownership, nor impair any rights or remedies which the Association or any other Owner has with regard to such former Owner.

ARTICLE III.

ASSESSMENTS

Section 1. Covenants for Assessments. The Declarant, for each Lot owned by it within the Property (being all Lots within the Property), hereby covenants to pay and each purchaser of any such Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to

covenant and agree to pay, to the Association: (1) Regular Annual Assessments or charges (as specified in Section 3 of this Article III); (2) Special Assessments (as specified in Section 4 of this Article III), and (3) Special Member Assessments (as specified in Section 5 of this Article III), all of such assessments to be fixed, established and collected as hereinafter provided.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of protecting and promoting the comfort, collective mutual enjoyment, health, safety, and welfare of the Owners of the Property, or any part thereof, and for carrying out the purposes of the Association as stated in its Articles of Incorporation and this Declaration. The judgment of the Board of Directors of the Association in determining the functions to be performed by the Association, in determining the amount of Regular Annual Assessments, Special Assessments and Special Member Assessments, and in the expenditure of funds shall be final and conclusive so long as its judgment is exercised in good faith.

Section 3. Regular Annual Assessments. Each Owner of a Lot shall pay Regular Annual Assessments to the Association.

a. Purpose. Regular Annual Assessments shall be levied upon each Lot to provide funds for the use and benefit of the Owners in the Property. Regular Annual Assessments may be used to finance in particular, but not by way of limitation, the following:

- (1) Operation, maintenance, repair, and improvement of the Common Areas, the Common Facilities, Common Personalty, Detention Areas and all Landscaping in the Common Areas, including funding of appropriate reserves for future repair, replacement and improvement of same;
- (2) Payment of taxes and premiums for insurance coverage in connection with the Common Areas, Common Facilities, and Common Personalty and any other property owned by the Association;
- (3) Paying the cost of labor, equipment (including expense of leasing any equipment), material, and any associated management or supervisory services and fees required for management and supervision of the Common Areas, Common Facilities, and Common Personalty;
- (4) Paying the cost and fees of a manager or firm retained to carry out the duties of the Association or to manage the affairs and property of the Association;

- (5) Maintaining or replacing any Landscaping in the Common Areas;
 - (6) Designing, purchasing and installing any improvements to the Common Areas;
 - (7) Mowing and routine maintenance of the Common Areas;
 - (8) Removing debris from the Common Areas;
 - (9) Repairing all areas of erosion within the Common Areas;
 - (10) Lighting, improving and maintaining streets, alleyways, sidewalks, and paths in the Property;
 - (11) Collecting and disposing of trash, garbage, ashes, rubbish and other similar materials;
 - (12) Payment of legal fees and expenses incurred to collect assessments and enforce this Declaration;
 - (13) Employing policemen or watchmen and/or a guard service;
 - (14) Carrying out the duties of the Board of Directors of the Association; and
 - (15) Carrying out such purposes of the Association as generally benefit all Members of the Association.
- b. Basis for Assessment. Subject to the provisions of Section 4 below, Regular Annual Assessments shall be levied against each Lot by the Board of Directors of the Association on an annual per lot basis. The square footage contained in each Lot or within each house and/or dwelling shall not be considered. After consideration of current costs and future needs of the Association, the Board shall fix the Regular Annual Assessment at any amount not in excess of the hereinafter stated maximum.
- c. Maximum Annual Assessment. Until December 31, 1995 the maximum Regular Annual Assessment shall be \$600.00 for each Lot. From and after January 1, 1996, the maximum Regular Annual Assessment may be increased each year not more than ten percent (10%) (such percentage may be cumulative from year to year) above the maximum assessment for the previous year by the Board of Directors of the Association without a vote of the Members. The maximum Regular Annual Assessment may be increased above such amount with the approval of a majority of the total eligible votes of each class of the

membership of the Association by Members voting in person or by proxy at a meeting called for such purpose.

- d. Lots owned by Declarant and Builders. Lots owned by the Declarant shall be subject to the obligation of payment of Regular Annual Assessments only at the rate of 25% of the amount assessed against the Lots owned by Class A Members. Lots owned by a Builder shall be subject to the obligation of payment of Regular Annual Assessments at the rate of 50% of the amount assessed against the Lots owned by the Class A Members who are not Builders until the earlier to occur of: (i) the expiration of the 12-month period after the purchase of each Lot by a Builder; or (ii) the sale of a Lot from a Builder to a Class A Member. Thereafter, the Regular Annual Assessment shall be paid for such Lots.

Section 4. Special Assessments. In addition to the annual assessments authorized by Section 3 hereof, the Association may, by vote of its members as set out in Section 6 hereof in any year or years, levy Special Assessments.

- a. Purpose. Special Assessments may be levied for the following purposes:
- (1) Defraying the cost of any new construction or reconstruction, unexpected repair or extraordinary maintenance, or replacement of capital improvements for and within the Detention Areas, Common Areas, Common Facilities, and Common Personalty, including the necessary fixtures and personal property related thereto;
 - (2) Responding to unusual or emergency needs of the Association as a whole as may be expected to occur from time to time;
 - (3) Satisfying the obligation and responsibility of replenishing all or part of any escrow funds held by any other third party which have been withdrawn to pay for obligations incurred or assumed by the Association under agreements with such third party and/or any other governmental authorities;
 - (4) Indemnifying a director, officer, agent or employee of the Association pursuant to the indemnification provisions of the Articles of Incorporation and Bylaws of the Association or this Declaration;
 - (5) Carrying out any other purposes that benefit the Association as a whole as stated in its Articles of Incorporation, Bylaws or as stated herein.

- b. Basis for Assessment. Special Assessments shall be allocated and prorated among the Owners at the date each such Special Assessment is levied in the same manner as Regular Annual Assessments are allocated and prorated among the Lots pursuant to Section 3 of this Article.

Section 5. Special Member Assessments. In addition to the Regular Annual Assessments and any Special Assessments authorized in this Article III, the Association, by vote of its Board of Directors, may levy a Special Member Assessment in accordance with, and as provided in Section 2 of Article VII hereof and the Bylaws of the Association, as such Bylaws presently exist or are subsequently modified or amended.

Section 6. Vote Required for Special Assessments. The Special Assessments authorized by Section 4 hereof must be approved by two-thirds (2/3rds) of the total eligible votes of the Class A Members and by two-thirds (2/3rds) of the Class B Members by Members voting in person or by proxy, at a meeting duly called for such purpose, a written notice of which shall be given to all Members at least thirty (30) days in advance and shall set forth the purpose of such meeting.

Section 7. Commencement Date of Annual Assessments. The first Regular Annual Assessment provided for herein shall commence on a date in 1995 fixed by the Board of Directors of the Association and shall continue thereafter from year to year. The assessment for 1995 shall be adjusted according to the number of months remaining in such year and shall be due and payable thirty (30) days after notice of assessment is sent to the Owners of the Lots.

Section 8. Due Date of Assessments. On or before November 30 of each year commencing November 30, 1995 the Board of Directors shall fix the Regular Annual Assessment for the following calendar year which shall become due and payable on January 1 of such year and delinquent if not paid by March 1 of such year. The due date of any Special Assessments under Section 4 hereof or of any Special Member Assessment under Section 5 hereof shall be fixed in the resolution authorizing such assessment.

Section 9. Owner's Personal Obligation for Payment of Assessments. The Regular Annual Assessments and all Special Assessments provided for herein shall be the personal and individual debt of the Owner of the Lot covered by such assessments. No Owner may, for any reason, exempt himself from liability for such assessments. In the event that any assessment or installment thereof is not paid when due, then the unpaid amount of any such assessment or installment thereof shall become delinquent and shall, together with interest thereon as herein provided and costs of collection thereof, be a continuing personal obligation and debt of the non-paying Owner secured by the

continuing lien imposed by this Declaration on the Lot, including all improvements thereon, to which such assessment or installment thereof pertains.

The obligation of any Owner to pay any assessment imposed on a Lot during such Owner's period of ownership shall remain such Owner's personal obligation, and a sale or other transfer of title to such Lot shall not release such former Owner from said liability notwithstanding an assumption of liability by the purchaser or transferee. The lien imposed by this Declaration for any unpaid assessments shall be unaffected by any sale or transfer of full or partial ownership interests in a Lot, or portion thereof, and shall continue in full force and effect.

The unpaid amount of any assessment shall bear interest from its due date at eighteen percent (18%) per annum or the maximum legal rate of interest then prevailing, whichever is lesser. In addition, the Board of Directors of the Association may elect to retain the services of an attorney of its choice for the purposes of collecting any unpaid assessment and interest charges thereon, and/or to foreclose the lien imposed by this Declaration against the property subject thereto and/or to pursue any other legal or equitable remedy which the Association may have and there shall be added to the amount of the unpaid assessment and interest charges thereon, any and all collection costs incurred by the Association, whether judicial or non-judicial, and including, but not limited to, reasonable attorney's fees and costs of legal suit.

Section 10. Assessment Lien and Foreclosure. Declarant hereby imposes upon each and every Lot of land within the Property a continuing lien enforceable by the Association to secure the payment to the Association of the Regular Annual Assessments, Special Assessments and Special Member Assessments (together with interest and the cost of collection, including reasonable attorneys' fees as provided in Section 9 hereof) attributable to the Owner of that Lot of land in the Property (the "Association's Lien"). Each Owner of each Lot, by acceptance of the deed therefor and whether or not it shall be so expressed in such deed, is deemed to covenant and agree to accept such Lot subject to the Association's Lien. Each Owner of each Lot, by acceptance of the deed there for and whether or not it shall be so expressed in such deed, hereby expressly vests in the Board of Directors of the Association, or its agents, the right and power to bring all actions against each such Owner personally for the collection of all such assessments as a debt and to enforce the aforesaid Association's Lien by all methods available for the enforcement of such liens, including non-judicial foreclosure pursuant to 51.002 of the Texas Property Code, as same presently exists or as it is subsequently amended; and each such Owner hereby expressly grants to the Board of Directors of the Association a power of sale in connection with said Association's Lien. The Board of Directors of the Association may designate a trustee in writing from time to

time to post or cause to be posted the required notices and to conduct such non-judicial foreclosure sale. The trustee may be changed at any time and from time to time by an instrument in writing signed by the President or a Vice-President of the Association and attested by the Secretary or any Assistant Secretary of the Association and filed for record in the official public records of real property of Harris County, Texas. The initial designation of a trustee by the Board of Directors of the Association shall be by an instrument in writing that is executed and filed in the same manner as an instrument changing the designated trustee. In any foreclosure proceedings, whether judicial or non-judicial, the Owner shall be required to pay the costs, expenses and reasonable attorney's fees incurred by the Association, and the Association shall have the right and power to bid on the property being foreclosed. The aforesaid Association's Lien shall be superior to all other liens and charges against the Property, except only for ad valorem tax liens and all sums unpaid on a first mortgage lien or first deed of trust lien of record, securing in either instance sums borrowed for the improvement and/or purchase of the property in questions, to which said liens the Association's Lien shall be subordinate and inferior. Provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a foreclosure sale (whether public or private) of any such Lot pursuant to the terms and conditions of any such mortgage or deed of trust. Any foreclosure and sale of a Lot pursuant to said superior liens shall not relieve any such Lot's Owner of personal liability for the sums owing under this Article nor the new Owner thereof from liability for the amount of any assessments thereafter becoming due nor from the continuing lien imposed hereby securing payment of any such subsequent assessments. The Association, acting through its Board of Directors, shall have the power to subordinate the aforesaid Association's Lien to any other lien.

Section 11. Common Properties Exempt. The Common Areas and any common properties of any other association which may merge or consolidate with the Association, and any common properties contained or defined within a Supplementary Declaration filed as provided in Article I, Section 3 of this Declaration, and all portions of the Property owned by or otherwise dedicated to any political subdivision, shall be exempted from the assessments and liens created herein.

Section 12. Certificate of Payment. The Board of Directors of the Association shall, upon the request of an Owner and the payment of a reasonable charge established by said Board, cause to be furnished to any such Owner liable for assessments, a certificate in writing signed by an officer of the Association setting forth whether said assessments have been paid. Such certificate shall be conclusive evidence of the payment of any assessments therein stated to have been paid.