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# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

# FOR

# LAKEPOINTE

# CITY OF LAVON, COLLIN COUNTY, TEXAS

**Return after recording**
**Essex Association Management, LP**
**1512 Crescent Drive, Ste. 112**
**Carrollton, Texas 75006**

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# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LAKEPOINTE

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

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LAKEPOINTE (as may be amended from time to time, the "**Declaration**") is made by LDC LAVON, LLC, a Texas limited liability company ("**LDC Lavon**"), and LAVON LAKEPOINTE DEVELOPMENT, LLC, a Texas limited liability company ("**Lavon LakePointe**"; LDC Lavon and Lavon LakePointe are herein collectively referred to as the "**Declarant**").

## WITNESSETH:

By recording this Declaration in the Official Public Records of Collin County, Texas, Declarant, as the owner of the real property described in **Exhibit "A"**, intends to create a general plan of development for a single-family residential planned community known as the "LakePointe" (the "**Subdivision**") located in the City of Lavon (the "**City**"), Collin County, Texas. This Declaration provides for the overall development, administration, maintenance, and preservation of the real property now and hereafter comprising the Property (as hereinafter defined). An integral part of the development plan is the creation of LakePointe at Lavon Homeowners Association, Inc., a Texas non-profit corporation, or other named non-profit corporation formed to perform the duties of the "Association" hereunder, to own, operate, and/or maintain various common areas and community improvements and to administer and enforce the covenants, conditions, restrictions, and easements set forth in this Declaration. The Members of the Association shall all be Owners of Property subject to this Declaration,

NOW, THEREFORE, Declarant hereby declares that the property described in **Exhibit "A"**, and any additional Property which is subjected to this Declaration in the future in accordance with **Article XIV** of this Declaration, shall be owned, conveyed, used, occupied and otherwise encumbered subject to this Declaration, which shall run with the title to such Property. This Declaration shall be binding upon all Persons having any right, title, or interest in any portion of the Property, their heirs, successors, successors-in-title, and assigns.

## ARTICLE I.
## DEFINITIONS

Section 1.1 Definitions. The terms used in this Declaration are intended to have their normal, commonly understood definitions, unless otherwise specified. In order to minimize repetition, avoid confusion, and explain key concepts, some terms are capitalized to indicate they have special definitions. Whenever used in capitalized form, those terms have the following meanings:

(a) "**Applicable Law**" means the statutes, public laws, ordinances, rules and regulations of any applicable governmental authority in effect at the time a provision of the Governing Documents is applied and pertaining to the subject matter of the Governing Document provision. Statutes and ordinances specifically referenced in the Governing Documents are "**Applicable Law**" on the date of the Governing Document and are not intended to apply to the Property if they cease to be applicable by operation of law, or if they are replaced or superseded by one or more other statutes or ordinances.

(b) "**Architectural Control Committee**" and/or "**ACC**" shall mean and refer to the architectural review body for the Property, as described in **Article III**. During the Development Period (as defined below), Declarant shall act as or appoint persons to act as the Reviewer with rights of the ACC in accordance with the terms of **Section 3.1** hereof

(c) "**Assessments**" shall have the meaning ascribed to such terms in **Section 10.1** below.

(d) "**Association**" shall mean and refer to LakePointe at Lavon Homeowners Association, Inc., a Texas non-profit corporation, and also maybe referred to or more commonly known as LakePointe. Formed by the Declarant to perform the duties of the "Association" hereunder, and which shall have the right to enforce this Declaration.

(e) "**Board of Directors**" or "**Board**" shall mean and refer to the directors selected as provided in the Bylaws, being responsible for the general governance and administration of the Association and this Declaration. The initial Board shall be those individuals set forth in the Certificate of Formation for the Association. ***During the Declarant Control Period, Declarant has the sole right to appoint and remove all Directors to the Board,*** provided that at least 1/3 of the directors serving on the Board shall be person(s) elected by a majority vote of Class A Members (as defined in the Bylaws) as set forth in the Bylaws after the date which is the earlier of (i) one hundred-twenty (120) days after seventy-five (75%) of the total number of Lots to be developed within the Property hereunder have been sold to non-Declarant Owners, or (ii) ten (10) years from the date that this Declaration is recorded. Each Director, other than Directors appointed by Declarant, shall be a Member and resident, or in the case of corporate, partnership or other entity ownership of a Lot, a duly authorized agent or representative of the corporate, partnership or other entity Owner. The corporate, partnership or other entity Owner shall be designated as the Director in all correspondence or other documentation setting forth the names of the Directors.

(f) "**Builder**" shall mean and refer to any person or entity who has acquired a Lot or Lots for the purpose of constructing a residence thereon for later sale to consumers.

(g) "**Bylaws**" shall mean and refer to the Bylaws of the Association, approved by the Board of Directors, as may be amended from time to time.

(h) "**City**" shall mean the City of Lavon, Texas.

(i) "**City Ordinance**" shall have the meaning ascribed to such terms in **Section 2.12** below.

(j) "**Common Properties**" shall mean all real property (including improvements thereon) now or hereafter owned, leased or controlled by the Association, or to which the Association holds possessory or use rights, for the common use and enjoyment of the Owners (hereinafter defined) including, but not limited to, such property which may be: (i) conveyed to the Association in fee simple title, (ii) leased to the Association, (iii) landscape or maintenance easements granted or dedicated to the Association by the Final Plat or other written instrument, which may include, without limitation, easement areas for maintenance of open space, drainage, detention or other improvements benefitting the Property in whole or in part over lands adjacent to or in the vicinity of the Property, (iv) benches, picnic areas, playground equipment and other hardscape and improvements, (v) any pool, clubhouse, and related improvements, (vii) detention areas or retention ponds within the Property, and (viii) any other real property or improvement the Association, at the sole discretion of the Board, decides to maintain. The Common Properties shall include any and all fixtures and improvements on the land constituting common areas, including, without limitation, landscaping, buffering, screening, irrigation, and associated improvements that are Common Properties next to public thoroughfares. The Declarant is under no obligation to construct or provide any Common Properties or related improvements or amenities. **Membership in the Association and payment of Assessments are not contingent upon the provision of or construction of any common element or amenity or any Common Properties. Membership for all Owners and payment of Assessments is mandatory. Provisions for Declarant vary, see Article X, Section 10.18**.

(k) "**Community-Wide Standard**" shall mean the standard of conduct, maintenance and appearance, including landscaping, generally prevailing throughout the Property or the minimum standards established pursuant to the Design Guidelines, Rules and Board resolutions, whichever is the highest standard. Declarant initially shall establish such standard. The Association, through its Board, shall ensure that the Community-Wide Standard established in this Declaration for the Property shall continue after the termination or expiration of the Declarant Control Period. **The Community-Wide Standard may contain objective elements, such as specific common areas or elements, lawn or house maintenance requirements, and subjective elements, such as matters subject to the Board's or ACC's discretion. The Community-Wide Standard may or may not be in writing and shall be enforceable against an Owner as any other restriction subject to this Declaration, the Bylaws, any Rules and Regulations, and any amendments to the aforementioned which may occur from time to time.** The Community-Wide Standard may evolve as development progresses and as the Property changes. The Community-Wide Standard shall not fall below the level established for the Property as of the date that the Declarant Control Period terminates or expires.

(l) "**County**" shall mean and refer to Collin County Texas, in which the Property is located.

(m) "**Declarant**" shall mean and refer to LDC Lavon, Lavon LakePointe, and any successor, alternate or additional Declarant as appointed by the Declarant by written instrument filed of record in the office of the County Clerk, for all or a specific portion or Phase of the Property. The term "**Declarant**" shall not include any person or entity that purchases a Lot from Declarant unless such purchaser is specifically assigned, by a separate recorded instrument, some or all of the Declarant rights under this Declaration as to the conveyed property.

(n) "**Declarant Control Period**" means the period of time commencing on the date of this Declaration and continuing through and including the earlier of (i) the date on which Declarant no longer owns any portion of the Property, or (ii) the date which is twenty-five (25) years after recordation of this Declaration in the Official Public Records of Collin County, Texas, or (iii) the date of recording in the Official Public Records of Collin County, Texas, of a notice signed by the Declarant terminating the Declarant Control Period.

(o) "**Design Guidelines**" shall mean and refer to the design standards and guidelines adopted by the Declarant, as may be amended in accordance with **Article III**, representing the minimum specifications for the construction of all residences, additions to such residences, and other improvements associated with each residence including, without limitation, other structures or improvements located on a residential Lot, and the minimum requirements for landscaping to be installed and maintained on each Lot. The Design Guidelines are an integral part of this Declaration and the development plan of the Property and/or Subdivision. The initial Design Guidelines are attached hereto as **Exhibit "B"** and may be subject to amendment by the Declarant at any time and from time to time without the consent or joinder of the Members. All Builders and prospective Owners or those desirous of constructing a residence on a Lot are strongly encouraged to obtain a current copy of the Design Guidelines prior to preparing plans and specifications for submission to the Architectural Control Committee for approval.

(p) "**Development Period**" shall mean the time period commencing on the date of recordation of this Declaration and ending on a date, whichever is earlier, that is (a) fifty (50) years after recording of this Declaration, or (b) the date of recording in the Official Public Records of Collin County, Texas of a notice signed by the Declarant terminating the Development Period. During the Development Period, Declarant shall have the right to (1) facilitate the development, construction, and marketing of the Subdivision, and/or (2) direct the size, shape, and composition of the Subdivision.

(q) "**Final Plat**" shall mean, initially, the map or plat of the Property or any portion thereof, and recorded in the Plat Records of Collin County, Texas, and any future recorded subdivision maps or plats covering any portion of the Property or additional real property made subject to this Declaration by any Supplemental Declaration (including, by Declarant pursuant to its rights hereunder), as such Final Plats may be amended from time to time.

(r) "**Governing Documents**" means, singly or collectively as the case may be, this Declaration, the Final Plat(s), the Bylaws, the Certificate of Formation, the Community-Wide Standard, the Design Guidelines, and the Rules of the Association, as any of these may be amended from time to time. An appendix, exhibit, schedule, or certification accompanying a Governing Document is a part of that Governing Document. All appropriate Governing Documents required to be recorded shall be recorded in every county in which all or a portion of the Property is located. The Governing Documents are Dedicatory Instruments as defined in Texas Property Code Section 202. Copies of the Association's Certificate of Formation, organizational consent of the initial directors, and Bylaws are attached hereto as **Exhibit "C"**.

(s) "**Lot(s)**" shall mean and refer to the enumerated lot(s), plot(s) or tract(s) of land shown upon a Final Plat; provided, however, Common Properties shall not be treated as a "Lot" for

purposes of this Declaration and are hereby specifically excluded from the term "Lot" as used hereunder.

(t) "**Member**" shall mean and refer to a member of the Association, as described in **Article VIII**.

(u) "**Owner**" shall mean and refer to each and every person or business entity (whether one or more), including Declarant (so long as applicable), that is a record owner of a fee or undivided fee interest in any Lot; provided, however, that (i) the term "**Owner**" or "**Owners**" shall not include any person or entity who holds a bona fide lien or interest in a Lot as security merely for the performance of an obligation (specifically including, but not limited to, any mortgagee or trustee under a mortgage or deed of trust) unless and until such mortgagee, beneficiary or trustee has acquired title to such Lot pursuant to foreclosure or any proceeding in lieu thereof; and (ii) with respect to any matter requiring the vote, consent, approval or other action of an Owner, each Lot shall be entitled to only one (1) vote except as provided for in **Section 8.2** and **Section 15.6** herein.

(v) "**Phase**" shall mean and refer to each separately developed residential area or addition as set forth and more fully described on a Final Plat depicting real property that has been subjected to the Declaration.

(w) "**Persons**" shall mean all individuals, entities, governmental authorities and agencies.

(x) "**Property**" shall mean and refer to the real property described on **Exhibit "A"**, any improvements now or hereafter situated thereon, and any and all additional real property (and the improvements thereon) subsequently annexed into the real property subject to this Declaration pursuant to a Supplemental Declaration filed by the Association or by Declarant in accordance with **Article XIV** hereof.

(y) "**Public Improvement District**" or "**PID**" shall mean and refer to the LakePointe Public Improvement District created by the City of Lavon, Texas pursuant to Chapter 372 of the Texas Local Government Code, as amended.

(z) "**Reviewer**" shall have the meaning ascribed to such term in **Section 3.1(d)** below.

(aa) "**Rules**" means the rules and regulations of the Association adopted in accordance with the Governing Documents or Applicable Law from time to time. The initial Rules may be adopted by Declarant for the benefit of the Association, and Declarant may, from time to time, amend the Rules as it deems necessary or appropriate during the Declarant Control Period. Thereafter, the Board of Directors shall have the right to adopt, amend, and/or rescind rules and regulations by way of resolution of the Board upon a majority vote of the Board.

(bb) "**Subdivision**" shall have the meaning ascribed to such term in the Recitals above.

(cc) "**Supplemental Declaration**" shall mean a recorded instrument which accomplishes one or more of the following purposes: (i) subjects additional real property to this

Declaration, or (ii) imposes, expressly or by reference, additional restrictions, covenants, easements and/or rights and obligations on the Property.

## ARTICLE II.
## CONSTRUCTION OF IMPROVEMENTS AND USE OF LOTS

Section 2.1 Residential Use. The Lots shall be used for single-family residential detached dwellings. No building or other structure shall be erected, altered, placed or permitted to remain on any Lot other than one (1) single-family residence per Lot, which residence may not exceed two (2) stories or thirty-six feet (36') in height, and a private garage as provided below. Any building or structure to be placed or constructed on a Lot is subject to approval in writing by the Architectural Control Committee under **Article III**.

Section 2.2 Single-Family Use. Except as otherwise provided in this **Section 2.2**, (i) each single-family residence may be occupied only by persons living and cooking together as a single housekeeping unit, together with any household employees, and (ii) except for families consisting of persons related by blood, adoption, or marriage (a "**Family Unit**"), no more than two persons per bedroom may occupy the same residence on a regular and consistent basis.

Section 2.2.1 Leasing (a) Homeowners who rent or lease their residence are required to execute a written lease agreement, signed by the tenant and a copy provided to the Association prior to the tenant's possession of the residence. **This Section 2.2.1 shall not be enforceable during the Declarant Control Period against Declarant or any Builders and homes owned by Declarant or a Builder shall be exempt and shall not be subject to any existing policy or future policy adopted containing limitations with regard to maximum number of homes which may rented, leased, or purchased with the sole intent to use property as an investment property. In the event an investment property sells after the Declarant Control Period by the Declarant or any Builder, the exclusion becomes void and the property shall be subject to all rules in place in this Section or under any policy adopted.**

(b) Each lease shall contain, at minimum, the following:

(i) The initial term of the lease shall not be less than one (1) year.

(ii) The property leased must include the entire residence.

(iii) The lease is restricted to single family residential uses as provided in **Section 2.2** above. Owner shall provide to the Association or its managing agent the names and contact information for the tenants.

(iv) The Owner must make available to the tenant copies of this Declaration, all Rules, and all amendments thereto. Tenant must agree to abide by this Declaration and all of the Association's Rules and must acknowledge that failure to do so may constitute a default under the lease. Owner must obtain a signed acknowledgment from the tenant that this **Section 2.2.1** of the Declaration has been explained in detail. The Tenant shall not be allowed access to any secured areas of the Association's website or other official social

media platforms. Owner shall not allow tenant to use their secure log in information to access any secured platform established for homeowner use only or owned and/or operated by the Association or its managing agent.

(v) No assignment or subleasing of any lease is allowed.

(vi) The Tenant must carry renter's insurance.

(vii) Owner shall be responsible at all times for Owner's tenant and the maintenance and upkeep of the home and Lot. Should the tenant violate this Declaration or any Rule and/or a violation notice is sent, the Owner shall be responsible for ensuring that the tenant complies with this Declaration and the Rules and that the violation noted is immediately abated. Should a fine for non-compliance or violations result, the Owner shall be responsible for payment to the Association of all fines and for any monetary expenses the Association may incur for the enforcement and abatement of a violation or non-compliance.

Section 2.3 Garage Required. Each residence shall have the minimum of an enclosed two car garage and shall conform to the requirements set forth in the Design Guidelines. The garage shall conform in design and materials with the main structure and may not be used as living quarters or for business purposes at any time.

Section 2.4 Driveways. All driveways shall be surfaced with concrete. No widening of driveway or designs, painting or staining of driveways is allowed without the express written permission of the ACC.

Section 2.5 Uses Specifically Prohibited. (a) Other than the primary residence, no temporary dwelling or structure, trailer or mobile home of any kind or any improvement of a temporary character shall be permitted on any Lot. No permanent structures may be constructed on any Lot without the prior written consent and approval of the Reviewer, including without limitation (i) children's playhouses and play sets, (ii) dog houses, (iii) greenhouses, (iv) gazebos, (v) pools, spas, and other water features, (vi) cabanas or pergolas, and (vii) buildings for storage of lawn maintenance equipment. Other than the primary residence, permanent structures that exceed the height of the fence line around the rear yard of any Lot shall be placed in the rear yard area behind and screened from the street by the primary residence constructed on such Lot. As a general rule, structures may peak not more than two feet (2') above the fence line and **all such structures are subject to approval in accordance with Article III. The addition or allowance of such structures may be considered on a purely aesthetic or case by case basis or based on the Community-Wide Standard which may or may not be in writing.** Declarant and the Builder or contractor may have temporary improvements (such as a sales office, construction trailer and /or parking lots) on a given Lot during construction of the residence on that Lot or on a different Lot as agreed to between the Builder or contractor and Declarant and/or as otherwise set out in the Design Guidelines. No building material of any kind or character shall be placed or stored upon the Property until the Owner thereof is ready to commence construction of improvements, and then such material shall be placed within the boundary lines of the Lot upon which the improvements are to be erected. Portable basketball goals may be allowed by written consent of the ACC, provided however, no goals may be kept in the street or within or in a manner

that blocks a sidewalk, and goals may not be placed in the grass area located between the front building line and street. Portable goals must be kept in the driveway when in use and stored out of public view when not in use. Permanent basketball goals are prohibited without express written consent from the ACC. Goals must be kept in good repair at all times and may not use unsightly weights such as tires, sand bags, or rocks unless the Owner can provide written proof from the manufacturer that such weights are the recommended means of weighing down the goal.

(b) Except as otherwise provided in this **Section 2.5(b)**, no vehicle may be parked or left upon any portion of a Lot except in a garage or on a driveway. Except as provided below, the following vehicles may **not** be parked on any street within the Property with the exception of temporary parking for loading, unloading or cleaning: recreational vehicles, mobile homes, trailers, campers, trucks with tonnage in excess of one (1) ton, semi-trucks and trailers, commercial vehicles (including all vehicles with commercial lettering or logos), and unlicensed or inoperable vehicles. Vehicles with commercial lettering or logos will be allowed to be parked in the garage or driveway of the Lot only. "Sports utility vehicles" and "mini-vans" are generally allowed but, shall be subject to removal based on size, height, weight, or at the sole discretion of the Board or the Reviewer. Pick-up trucks without commercial writing or logos shall be treated as automobiles and may be parked outside of enclosed garages. Inoperable vehicles are not allowed to be parked in the driveway or on the street at any time. The Declarant and Board of Directors reserves the right to exercise its rights by Applicable Laws to enforce towing upon any vehicle that violates this section or any portion of this Declaration. This **Section 2.5(b)** shall not apply to parking for purposes of emergency vehicle repairs or to construction, service, and delivery vehicles for periods necessary to perform the services or make a delivery.

***The Board, in its discretion, may enact additional rules governing such temporary, permanent, and/or irregular use or, in the absence of specific rules, shall have discretion in determining what constitutes permissible parking under such circumstances. The Board shall have sole discretion in determining what constitutes a violation of Section 2.5(a) and (b).***

As used in this **Section 2.5(b)**, the term "**vehicles**" includes but, is not limited to, automobiles, trucks, boats, trailers, motorcycles, campers, vans, and recreational vehicles.

(c) No vehicle of any size which transports flammable or explosive cargo may be kept or parked on the Property at any time, except for use by or on behalf of Declarant in connection with the development of the Property or by a Builder or its contractor in connection with the construction of improvements on a Lot.

(d) No animals or livestock shall be raised, bred or kept on the Property for commercial purposes or for food. Dogs, cats or other customary household pets may be kept for the purpose of providing companionship for the private family; however, those pets which are permitted to roam free, or, in the sole discretion of the Board and to the extent permitted under applicable law, constitute a nuisance to the occupants of other Lots may issue an order to an Owner that such pet be removed upon request of the Board; provided, in no event shall the Board or Association be required to remove any pet from the Subdivision. If an Owner has failed to remove its pet from the Subdivision pursuant to any order or removal issued by the Board within three (3) days after such order is delivered to an Owner, such Owner shall be subject to fines hereunder and the Board may proceed with efforts to immediately remove the pet that is the subject of the order from the

Subdivision. Notwithstanding anything contained herein to the contrary, the Board in its sole discretion and without incurring any further duty or obligation to owners and occupants within the Property, may decide to take no action and refer complaining parties to the appropriate municipal or governmental authorities for handling and final disposition. **IF ANY ANIMAL OR PET IS A NUISANCE IN THE SUBDIVISION, OWNERS ARE ENCOURAGED TO CONTACT THEIR LOCAL ANIMAL CONTROL AUTHORITY FOR ASSISTANCE.** The Association shall have no liability or obligation to ensure removal of a pet from the Subdivision that is a nuisance and cannot be held liable or responsible if any enforcement actions taken by the Association under this **Section 2.5(d)** are unsuccessful. **BY ACCEPTANCE OF TITLE TO ITS LOT, EACH OWNER HEREBY RELEASES AND WAIVES THE ASSOCIATION, DECLARANT, THE BOARD AND/OR ITS MANAGING AGENT AND THEIR RESPECTIVE MEMBERS, EMPLOYEES, DESIGNEES, ADMINISTRATORS, INSPECTORS, CONTRACTORS, AND AGENTS (COLLECTIVELY, THE "ASSOCIATION PARTIES") FROM, AND AGREES TO INDEMNIFY AND DEFEND THE ASSOCIATION PARTIES AND HOLD THE ASSOCIATION PARTIES HARMLESS FROM AND AGAINST, ANY CLAIMS, LIABILITIES, LOSS, DAMAGE, COSTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES (COLLECTIVELY, THE "CLAIMS"), IN CONNECTION WITH OR ARISING OUT OF ANY ACTIONS OR ATTACK BY OWNER'S PET OR BY ANY PET RESIDING ON AN OWNER'S LOT WITHIN THE SUBDIVISION. ALL BREEDS OF PETS THAT ARE DETERMINED TO BE AGGRESSIVE OR VICIOUS BREEDS BY THE BOARD OR ANY APPLICABLE GOVERNMENTAL AUTHORITY (INCLUDING SPECIFICALLY, WITHOUT LIMITATION, PIT BULLS OR ROTTWEILERS) ARE STRICTLY PROHIBITED WITHIN THE SUBDIVISION AND ARE DEEMED TO BE A NUISANCE AND SUBJECT TO THE REMOVAL PROVISIONS SET FORTH HEREIN**. In addition, any Owner of a pet that attacks another person or animal is subject to a $1,000 fine, whether or not such Owner's pet inflicted harm on a person. Pets shall be kept on a leash or otherwise confined inside a fenced area whenever outside the residence. Pets shall be registered, licensed and inoculated as required by law and must be properly tagged for identification. It is the Owner's responsibility to keep the front of their Lot clean and free of pet debris and to pick up and properly dispose of their pet's waste wherever deposited. Notwithstanding anything seemingly herein to the contrary, no more than three (3) household pets will be permitted on each Lot.

(e) No Lot or other area on the Property shall be used as a dumping ground for rubbish or a site for the accumulation of unsightly materials of any kind, including, without limitation broken or rusty equipment, disassembled or inoperative cars or other vehicles or discarded appliances and furniture. Trash, garbage and other waste shall be kept in sanitary containers and shall be kept out of public view or screened from view of the street and any adjacent Lot or Common Properties. The construction or installation of concrete pads with live or fence screening for trash cans requires prior written consent of the Reviewer. All incinerators or other equipment for the storage or other disposal of such material shall be kept in clean and sanitary condition. Materials incident to construction of improvements may be stored on Lots during construction so long as construction progresses without undue delay.

(f) No air-conditioning apparatus shall be installed on the ground in front of a residence. No air-conditioning apparatus shall be attached to any wall or window of a residence.

(g) The erection, construction, placement or installation of any television, radio or other electronic tower, serial, antenna, satellite dish or device of any type for the reception or transmission of radio or television broadcast signals or other means of communication upon a Lot or upon any improvement thereon is prohibited, except that this prohibition shall not apply to those antennae specifically covered by 47 C.F.R. Part 1, Subpart S, Section 1.4000 (or any successor provision) promulgated under the Telecommunications Act of 1996, as amended from time to time. The Board shall be empowered to adopt rules governing the types of antennae that are permissible hereunder and establishing reasonable, non-discriminatory restrictions relating to safety, location and maintenance of antennae. To the extent that reception of an acceptable signal would not be impaired or the cost of installation would not be unreasonably increased, an antenna permissible pursuant to this Declaration or the Rules of the Association may only be installed in a side or rear yard location, not visible from the street or neighboring property, and integrated with the residence and surrounding landscape. Antennae shall be installed in compliance with all state and local laws and regulations, including zoning, land-use and building regulations.

(h) No Lot or improvement thereon shall be used for commercial or manufacturing purposes of any kind other than a small home office. Nothing in this subparagraph shall prohibit Declarant's or a Builder's use of a residence as a sales and/or construction office, including without limitation, parking lots to serve aforesaid office, until such Builder's last residence on the Property is sold and closed. Nothing in this subparagraph shall prohibit an Owner's use of a residence for quiet, inoffensive activities such as a small home office, tutoring or giving lessons such as art or music, so long as such activities are consistent with the residential character of the Property, do not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of others within the Property, as determined in the Board's discretion, and do not materially increase the number of cars parked on the street.

(i) No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between three feet (3') and six feet (6') above the roadway shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street right-of-way lines and a line connecting them at points ten feet (10') from the intersection of the street right-of-way lines, or, in the case of a rounded property corner, from the intersection of the street right-of-way lines as extended. The same sight-line limitations shall apply on any Lot within ten feet (10') from the intersection of a street right-of-way line with the edge of a private driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

(j) Except for children's playhouses, dog houses, greenhouses, gazebos and buildings for storage of lawn maintenance equipment which specifically conform to the Design Guidelines and the requirements of **Section 2.5(a)** herein, no building previously constructed elsewhere shall be moved onto any Lot, it being the intention that only new construction be placed and erected thereon.

(k) No sign of any kind with the exception of school spirit signs or other similar signs displaying school related activities shall be displayed to the public view on any Lot, except (i) political signs which may be placed on the Lot no earlier than the date which is ninety (90) days before the election to which the sign relates and which must be removed within ten (10) days after the election for which such sign is displayed, (ii) one (1) professional security service sign of not

more than one square foot, (iii) one (1) sign of not more than five square feet advertising the property for rent or sale during any period that the Lot actually is for rent or sale, or (iv) signs used by a Builder to advertise the Property during the construction and sales period, each of which shall, in any event, comply with all statutes, laws or ordinances governing same. The Board of Directors or its agents shall have the right to remove any sign, billboard or other advertising structure that does not comply with the above, and in so doing shall not be subject to any liability for trespass or otherwise in connection with such removal.

(l) The drying of clothes in public view is prohibited. Clothes lines are prohibited.

(m) Wood used for fireplace, barbeque, or other use must be stacked neatly and screened from public view. The Owner is responsible for ensuring that such wood stack is kept free of rodents and insects.

(n) The use of the name of the Association or the Subdivision, or any variation thereof, in any capacity without the express written consent of the Declarant during the Declarant Control Period, and thereafter the Board, is strictly prohibited. Additionally, the use of any logo adopted by the Association or the Subdivision, or use of any photographs of the entryway signage or other Subdivision signs or monuments or Common Properties without the express written consent of the Declarant during the Declarant Control Period, and thereafter the Board, is strictly prohibited.

(o) No Owner shall perform, fail to perform, or permit anything to be done or not done on such Owner's Lot which would violate this Declaration, the Rules, City Ordinance, any Applicable Law or other laws, statutes, ordinances or regulations of any kind or character. No Owner shall perform or permit anything to be done that can be considered a nuisance or safety hazard to the surrounding neighbors or the community. If an Owner leases his home, the occupant / tenant shall be required to adhere to all Governing Documents and the Rules. It shall be the responsibility of the Owner to ensure the occupant / tenant is aware of all restrictions, and Rules. Violation infractions committed by an occupant / tenant, resident, guest or invitee will be the responsibility of the Owner to cure / abate. If a fine for non-compliance is levied, the Owner will be responsible for the payment in full of all fines, self-help remedies, or cost of repairs which may be incurred by the Association.

Section 2.6 Minimum Floor Area and Setback Restrictions. The total air-conditioned living area of the main residential structure constructed on each Lot, as measured to the outside of exterior walls but exclusive of open porches, garages, patios and detached accessory buildings, shall be in accordance with the requirements under the Design Guidelines Without limiting the foregoing, fifty foot (50') Lots shall have not less than 1,300 square feet of air-conditioned living area and sixty foot (60') Lots shall contain not less than 1,500 square feet.

Section 2.7 Fences and Walls. Any fence or wall must be constructed of masonry materials, wood, wrought iron or other material approved by the Declarant or the ACC. All side yard fencing on the street side of corner Lots shall run parallel to the curb and shall not encroach more than 5' beyond the side building line that is adjacent to the side street and shall terminate no closer than 10' to the Minimum Front Yard Setback line. Fences or walls erected by Declarant on a Lot shall become the property of the Owner of the Lot on which the same are erected and as such shall be maintained and repaired by such Owner. **Notwithstanding the foregoing, Lots**

**containing Subdivision perimeter fencing or screening fencing for which maintenance is assigned to the Association shall be the responsibility of the Association to maintain.** All fences shall have the posts facing inward so that they are not visible from any street. The standard fence height for all fences shall be six feet (6'). No portion of any fence shall extend more than eight feet (8') in height. Notwithstanding the foregoing, use of eight foot (8') fencing will be reviewed and may be approved on a case by case basis and is subject to the sole discretion of the Declarant during the Declarant Control Period and thereafter the ACC or, in the absence of an ACC, the Board of Directors.

Section 2.8 Building Materials. The building materials to be used for each residence and other structure must conform to the requirements set out in the Design Guidelines. Allowed roofing materials shall be set forth exclusively in the Design Guidelines. The color of roofing shall be consistent throughout the Subdivision and shall otherwise conform to the Design Guidelines.

Section 2.9 Mailboxes and Address Blocks. (a) Mailboxes shall be cluster mailboxes standardized throughout Subdivision and shall be constructed in accordance with the Design Guidelines. An address block shall be installed on the front facade of each residence and shall be of cast stone.

(b) In the event that any damage, replacement or repair of cluster mailboxes or pad sites on which such cluster mailboxes are situated is required, such maintenance, repair and/or replacements shall be performed by the Association, and the cost and/or expense incurred by the Association therefor shall be charged as a Special Assessment to the Owners.

Section 2.10 Landscaping. (a) Each Builder of a residence upon each Lot shall, upon or before the first occupancy of a house, fully sod grass in the front, sides and rear yards, plant the minimum size and number of trees and minimum size and number of shrubs in the front yard against the foundation of the house as required by either the Design Guidelines or the City. All Lots must be irrigated. All Lots shall have sufficient underground irrigation systems for watering. **Specific landscape ordinances exist with the City of Lavon for LakePointe and must be adhered to. Builders should review the City's ordinances in addition to this Declaration and the Design Guidelines to ensure compliance with all landscape requirements are met.**

(b) Each Owner of a Lot shall have the responsibility to properly maintain such trees and landscaping and, if necessary, shall replace such trees or landscaping in accordance with the Design Guidelines. To ensure that the Subdivision is maintained in a pleasingly aesthetic manner, the Declarant and/or the Association shall have the right, but not the obligation, to be exercised at its sole option, to remove and replace dead trees and landscaping and charge the costs thereof to the Owner's account as a Special Individual Assessment under **Section 10.7** below. Such "self-help" actions is an approved enforcement measure for the Declarant, Board, and the ACC and may be carried out by those authorized including any agent of record, vendor, or any other person or entity chosen to fulfill this task.

Section 2.11 Design Guidelines. In addition to any requirements set forth in this Declaration, all Owners are required to comply with the Design Guidelines in the construction and maintenance of improvements within the Property and the installation, maintenance and replacement of trees and landscaping within the Property.

Section 2.12 City Ordinance. The Property and Lots are be subject to a planned development ordinance to be developed in accordance with the development standards established for single family residential Lots (SF4) in the zoning ordinance, or other zoning or use ordinance adopted by the City with respect to the Property (herein referred to as the "**City Ordinance**"), as may be recorded or to be recorded in the Official Public Records, of the City of Lavon, Collin County, Texas. ***No use shall be permitted on the Property which is not allowed under the City Ordinance or other Applicable Laws either already adopted or as may be adopted by the City or other controlling public authorities***. Each Owner, occupant or other user of any portion of the Property, shall at all times comply with this Declaration, the City Ordinance (if any) and any and all other laws, ordinances, policies, rules, regulations and orders of all federal, state, county and municipal governments and other agencies having jurisdictional control over the Property, specifically including, but not limited to, applicable zoning restrictions placed upon the Property as they exist from time to time. **IN SOME INSTANCES, REQUIREMENTS UNDER THE CITY ORDINANCE OR OTHER GOVERNMENTAL REQUIREMENTS MAY BE MORE OR LESS RESTRICTIVE THAN THE PROVISIONS OF THIS DECLARATION. IN THE EVENT A CONFLICT EXISTS BETWEEN ANY SUCH REQUIREMENTS UNDER THE CITY ORDINANCE OR OTHER GOVERNMENTAL REQUIREMENT AND ANY REQUIREMENT OF THIS DECLARATION, THE MOST RESTRICTIVE REQUIREMENT SHALL PREVAIL, EXCEPT IN CIRCUMSTANCES WHERE COMPLIANCE WITH A MORE RESTRICTIVE PROVISION OF THE DECLARATION WOULD RESULT IN A VIOLATION OF MANDATORY APPLICABLE CITY ORDINANCE OR GOVERNMENTAL REQUIREMENTS, IN WHICH EVENT THOSE GOVERNMENTAL REQUIREMENTS SHALL APPLY. COMPLIANCE WITH THE CITY ORDINANCE OR OTHER MANDATORY GOVERNMENTAL REQUIREMENTS WILL NOT RESULT IN THE BREACH OF THIS DECLARATION EVEN THOUGH SUCH COMPLIANCE MAY RESULT IN NON¬COMPLIANCE WITH PROVISIONS OF THIS DECLARATION. WHERE A CITY ORDINANCE OR ANY GOVERNMENTAL REQUIREMENT DOES NOT CLEARLY CONFLICT WITH THE PROVISIONS OF THIS DECLARATION BUT PERMITS ACTION THAT IS DIFFERENT FROM THAT REQUIRED BY THIS DECLARATION, THE PROVISIONS OF THIS DECLARATION SHALL PREVAIL AND CONTROL.** All Lots shall be developed in accordance with this Declaration as this Declaration may be amended or modified from time to time as herein provided.

## ARTICLE III.
## ARCHITECTURAL CONTROL

Section 3.1 Review Authority.

(a) General. Declarant and the Association may engage the services of third-party professionals including architects, engineers, or other persons to perform and administer the submission, review and inspection process which may be required or necessary under this **Article III**. Declarant reserves the right to implement and enforce additional application, permitting, review, testing and inspection requirements and procedures not contained herein relating to national or uniform codes pertaining to building, electrical, plumbing and any other aspect of construction or development as deemed necessary by Declarant.

(b) Declarant. Declarant shall have exclusive authority to administer, review and act upon all applications for architectural and other improvements within the Property until expiration of the Development Period, unless Declarant earlier terminates its rights in a recorded instrument. Declarant may issue a variance at any time and from time to time at its sole discretion. Declarant may designate or engage one or more persons or entities to act on its behalf with respect to some or all matters coming within the purview of this Article III. In reviewing and acting upon any request for approval, Declarant or its designee act solely in Declarant's interest and owe no duty to any other person. Declarant is not required to hold meetings or keep minutes relating to its review under this Article III. Declarant may from time to time delegate or assign all or any portion of its rights under this Article III to any other person, entity or committee, including the ACC. Any such delegation shall be in writing, shall specify the delegated responsibilities, and shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume its prior jurisdiction, and (ii) Declarant's right to veto any decision which it determines, in its discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article III, the jurisdiction of other entities shall be limited to such matters as Declarant specifically delegates.

(c) Architectural Control Committee. Upon Declarant's delegation or upon expiration or termination of Declarant's rights under this **Article III**, the Association, acting through the ACC, shall assume jurisdiction over architectural matters. The ACC shall consist of at least three persons. Members of the ACC need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers, or similar professionals, who may be compensated in such manner and amount, if any, as the Board may establish. The ACC members shall be designated, shall serve, and may be removed and replaced in the Board's discretion. For so long as Declarant owns any portion of the Property (and unless the Declarant notifies the ACC in writing to the contrary), the ACC shall notify Declarant in writing no less than thirteen (13) business days prior to communicating to the Owner any action (*i.e.*, approval, partial approval, or disapproval) it intends to take under this **Article III**. A copy of the application and any additional information that Declarant may require shall accompany the notice. During such time, Declarant shall have the right, in its sole and absolute discretion, to veto any ACC action; provided, Declarant's right to veto must be exercised within ten (10) business days after it receives notice of the ACC's proposed action. The party submitting the plans for approval shall not be notified of the ACC's proposed action until after Declarant's right to veto has expired.

The Board may create and appoint subcommittees of the ACC. Subcommittees may be established to preside over particular areas of review (*e.g.*, landscape plans) and shall be governed by procedures the Board or the ACC may establish. Any subcommittee's actions are subject to review and approval by Declarant for as long as Declarant may review the ACC's decisions, and by the ACC. Notwithstanding the above, neither the ACC nor Declarant shall be obligated to review the actions of any subcommittee, and the failure to take action in any instance shall not be a waiver of the right to act in the future. Unless and until such time as Declarant delegates any of its reserved rights to the ACC or Declarant's rights under this **Article III** or such rights expire or terminate, the Association shall have no jurisdiction over architectural matters.

(d) Reviewer. The entity having jurisdiction in a particular case, whether Declarant or

its designee(s) or the ACC, shall be referred to as the "**Reviewer**". Use of both Reviewer and ACC are used interchangeably throughout this Declaration and have the same meaning and purpose as is set forth in this Declaration as well as any Rules which may now exist or be adopted at a later date. The ACC may appoint one member of the ACC to become the Reviewer or chairman of the ACC.

(e) Fees; Assistance. The Reviewer, including any third party professional or other agency or entity appointed or engaged by the Declarant or the Association, may establish and charge reasonable fees for its review of applications and shall require that such fees be paid in advance. If such fees or charges, including those set forth under **Section 3.3** below, are not paid in advance, the Reviewer shall have no obligation whatsoever to review any such related application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers, or other professionals. The Board may include the compensation of such persons in the Association's annual operating budget. Fees owed to the Reviewer belong to the Association. The Association may, at its sole discretion, adopt use of a program that will allow Owners to download and submit applications through an online platform. In the event the Association makes such a program available, the Association may charge a reasonable fee for each application submitted to help offset the cost and expenses associated with creating, maintaining, handling and processing the applications.

Section 3.2 Review Requirements. (a) No building, wall, pool or other structure shall be commenced, erected, installed, placed, or substantially altered on any Lot, nor shall any exterior painting (other than repainting a structure the same or similar color) of, exterior addition to, or substantial alteration of such items be made, until all plans and specifications and a plot plan have been submitted to and approved in writing by the Reviewer. Above ground pools are prohibited. Any structure that does not blend with and add to the aesthetic appearance of the main residence or the aesthetic harmony of the neighborhood shall be denied. The Association is herein instructed to use enforcement measures made available to it to ensure the Community-Wide Standard is upheld at all times. Self-help actions and monetary fines should be exercised by the Board and the ACC to ensure the standards adopted by the Declarant and set forth in this Declaration and the Rules are upheld.

(b) The Reviewer is authorized and empowered to consider and review any and all aspects of construction and landscaping which may, in the reasonable opinion of the Reviewer, adversely affect the living enjoyment of one (1) or more Owners or the general value of the Property. The Reviewer shall have the right to render decisions based solely on aesthetic considerations. In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of the proposed exterior design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. ***Each Owner acknowledges that aesthetic determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements. The Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and such determinations are not subject to judicial review so long as they are made in good faith and in accordance with the required procedures.***

Section 3.3 Procedure for Approval. (a) **PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION BY ANY PERSON OR ENTITY, THE BUILDER SHALL**

**OBTAIN FROM THE REVIEWER A BUILDING PERMIT AND/OR APPROVAL AND SHALL PAY, IN ADVANCE, ANY RELATED INSPECTION FEES AND FEES OWING OR TO BE OWED AS DETERMINED BY THE REVIEWER. THIS REQUIREMENT APPLIES TO (a) ORIGINAL CONSTRUCTION OF A HOUSE AND ANY OTHER IMPROVEMENTS ON A LOT, (b) POOL CONSTRUCTION AND/OR INSTALLATIONS, AND (c) ALL MODIFICATIONS AND ADDITIONS TO EXISTING STRUCTURES AND IMPROVEMENTS. FAILURE TO OBTAIN SUCH PERMIT AND/OR APPROVAL AND TO PAY SUCH FEES PRIOR TO INITIATION OF CONSTRUCTION SHALL BE CAUSE FOR THE REVIEWER OR THE ASSOCIATION TO REQUEST AND OBTAIN EMERGENCY TEMPORARY RELIEF TO RESTRAIN ALL ASPECTS OF CONSTRUCTION.**

(b) In addition to the foregoing requirement, final plans and specifications shall be submitted in duplicate by certified mail, return receipt requested, or hand delivery to the Reviewer. The plans and specifications shall show the nature, kind, shape, height, materials and location of all landscaping and improvements. The application shall specify in writing any requested variances from the requirements set forth in this Declaration, the Design Guidelines, the Community-Wide Standard and the Rules. The Reviewer is authorized to request the submission of samples of proposed construction materials and such other information as they reasonably deem necessary to make their determination. At such time as the plans and specifications meet the approval of the Reviewer, one complete set of plans and specifications will be retained by the Association, for up to three (3) years only, and the other complete set of plans shall be marked "Approved", signed by a representative of the Reviewer and returned to the Lot Owner or his designated representative. If disapproved by the Reviewer, one set of such plans shall be returned marked "Disapproved" and shall be accompanied by a reasonable statement of the reasons for disapproval, which statement shall be signed by a representative of the Reviewer. Any modification of the approved set of plans and specifications must again be submitted to the Reviewer for its approval. The Reviewer's approval or disapproval, as required herein, shall be in writing. Any reliance upon a verbal approval of any plans by the Reviewer shall be wholly unjustified and, at the risk of the Lot Owner, and shall be subject to any subsequent or otherwise conflicting written response by the Reviewer.

(c) **If the Reviewer fails to approve or disapprove a Builder's plans and specifications or modification thereto within fourteen (14) business days after the date of Reviewer's receipt, then the plans and specifications are deemed approved. Notwithstanding any approval or disapproval by the Reviewer, the Builder has the sole responsibility to ensure that the plans and specifications meet all applicable City requirements and the requirements as set forth in this Declaration and the Design Guidelines.** Builder shall be subjected to the same enforcement rules as any other Member in the event of non-compliance and shall be subject to fines for failure to conform to the standards. Any Builder who is constructing residences on multiple Lots shall have the option of submitting to the Reviewer a master set of final plans and specifications for all of the residences it intends to construct within the Property in accordance with the provisions of this paragraph. Once the master set of plans has been approved, the Builder shall be allowed to construct residences in accordance with such approved plans and, other than a site plan showing the elevation and location of the improvements on the Lot, no further submittals shall be required unless material deviations have been made to such approved plans. The Reviewer may, but is not obligated to, permit or

require that plans be submitted by electronic means. Additionally, the Reviewer may, but is not obligated, to permit or require that plans be submitted in stages, in which case, a final decision shall not be required until after the final, required submission stage.

(d) **If the Reviewer fails to approve or disapprove any plans and specifications or modification thereto for any Owner other than a Builder, within forty-five (45) days after the Reviewer's date of receipt, then the plans and specifications are deemed disapproved. NO VERBAL APPROVALS SHALL EVER BE GIVEN OR ASSUMED.**

(e) As part of any approval, the Reviewer may require that construction in accordance with approved plans and specifications commence within a specified time period. If construction does not commence within the required period, the approval shall expire and the Owner must reapply for approval before commencing any activities. Once commenced, construction must be diligently pursued to completion. All construction work shall be completed within one (1) year of commencement unless otherwise specified in the notice of approval or the Design Guidelines, or unless the Reviewer, in its discretion, grants an extension in writing. If approved work is not completed within the required time, it shall be in violation of this **Article III** and shall be subject to enforcement action. Also, as a part of the review process, the Reviewer may, but is under no obligation to, require that the construction of any improvement be inspected on a periodic basis prior to completion for compliance with the approved plans and specifications, codes adopted by the Declarant, and other matters relating to the quality or method of construction. The Association may conduct such inspections or, in the alternative, it may contract with third parties for such purposes. The Owner on whose Lot the construction is taking place shall be responsible for the payment of costs relating to any such inspection. The Declarant or the Reviewer has the right to issue a cease and desist order when any unauthorized work is taking place, regardless of the project. Any revision or removal required on unauthorized work regardless of the project will be at the sole cost of the Builder, Owner, or responsible party.

Section 3.4 Standards. The Reviewer shall have sole discretion with respect to taste, design and all standards specified herein. One objective of the Reviewer is to prevent unusual, radical, curious, odd, bizarre, peculiar or irregular structures from being built on the Property. The Reviewer shall have the authority to interpret and amend the Design Guidelines, subject to Declarant's approval, for so long as Declarant or any Builder owns any portion of the Property and, thereafter, subject to the approval of the Board. The Reviewer may from time to time publish and promulgate bulletins regarding architectural standards, which shall be fair, reasonable and uniformly applied and shall carry forward the spirit and intention of this Declaration.

Section 3.5 Requests for Variance. Upon submission of a written narrative request for same, the Declarant and/or the Reviewer may, from time to time, in its sole discretion, permit Owners and Builders to construct, erect or install improvements which are in variance from the requirements of this Declaration or which may be contained in the Design Guidelines. **A variance may be temporary or permanent in nature**. In any case, however, such variances shall be in basic conformity and shall blend effectively with the general architectural style and design of the community. No member of the ACC or the Board, or the Association or Declarant shall be liable to any Owner or other person claiming by, through, or on behalf of any Owner, for any claims, causes of action, or damages arising out of the granting or denial of, or other action or failure to act upon, any variance request by any Owner or any person acting for or on behalf of any Owner.

**Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a variance to any Owner shall not constitute a waiver of the Reviewer's right to strictly enforce the Declaration, the Community-Wide Standard and the Design Guidelines against any other Owner**. Each such written request must identify and set forth in narrative detail the specific restriction or standard from which a variance is sought and describe in complete detail the exact nature of the variance sought. Any grant of a variance by the Reviewer must be in writing and must identify in narrative detail both the standard from which a variance is being sought and the specific variance being granted.

Section 3.6 Liability of Reviewer. (a) Neither Declarant, the Board of Directors, the Architectural Control Committee, nor any of their respective members, officers, employees, designees, contractors, administrators, inspectors and agents, shall have any liability whatsoever for decisions made in accordance with this Declaration so long as such decisions are made in good faith and are not arbitrary or capricious. The plans or the site plan submitted to the Reviewer shall be the responsibility of the Owner of the Lot to which the improvements relate, and the Reviewer shall have no obligation to check for errors in or omissions from any such plans, or to check for such plans' compliance with the general provisions of this Declaration, Design Guidelines, Rules, or any codes, ordinances, regulations or other laws, whether statutory or not, and whether the same relate to Lot lines, building lines, easements or any other issue. Review and approval of any plans pursuant to this Article III may be based on purely aesthetic considerations. The Reviewer is not responsible for the structural integrity or soundness of approved construction or modifications, for compliance with building codes and other governmental requirements, or for ensuring that every residence is of comparable quality, value, or size, of similar design, or aesthetically pleasing or otherwise acceptable to other Owners.

(b) **THE ASSOCIATION HEREBY UNCONDITIONALLY AND PERPETUALLY INDEMNIFIES AND HOLDS DECLARANT, THE BOARD, THE ARCHITECTURAL CONTROL COMMITTEE, THE REVIEWER, AND THEIR RESPECTIVE MEMBERS, EMPLOYEES, DESIGNEES, ADMINISTRATORS, INSPECTORS, CONTRACTORS, AND AGENTS HARMLESS FROM AND AGAINST ANY CLAIMS, LIABILITIES, LOSSES, DAMAGES, COSTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, IN CONNECTION WITH OR ARISING OUT OF ANY ACTIONS OR INACTIONS TAKEN HEREUNDER BY THE REVIEWER, IRRESPECTIVE OF WHETHER OR NOT THE REVIEWER, ITS EMPLOYEES, CONTRACTORS, AGENTS AND OTHER INDIVIDUALS OR ENTITIES EMPLOYED BY THE REVIEWER ACTED NEGLIGENTLY OR WITH WILLFUL MISCONDUCT.**

Section 3.7 Special Rights of Declarant. Notwithstanding anything to the contrary contained herein, any Lot owned by Declarant, or its successor or assign, shall not be subject to the provisions of this **Article III,** and Declarant shall not be required to submit plans and specifications to the Architectural Control Committee, nor obtain the consent, permission or approval of the Architectural Control Committee, for the matters otherwise required pursuant to this **Article III**, and the consent, permission or approval of the Architectural Control Committee shall be deemed given for plans and specifications, plot plans and the like to be used by Declarant, or Declarant's successors and assigns, in the construction of any residence on any Lot owned or sold to a Builder by Declarant. **DECLARANT ALSO RETAINS SPECIAL AND UNIQUE**

**RIGHTS AND PRIVILEGES IN ARTICLE XII THAT TAKE PRECEDENCE OVER ALL OTHER ARTICLES OR SECTIONS IN THIS DECLARATION.**

## ARTICLE IV.
## SPECIAL FENCING AND LANDSCAPING

Section 4.1 Fences, Retaining Walls and Screening Landscaping. (a) Declarant and/or the Association shall have the right, but not the obligation, to erect, install, maintain, repair and/or replace fences, retaining walls, screening landscaping and/or sprinkler systems within that portion of any Lot situated along the perimeter of the Property or on Lots adjacent to Common Properties, as shown on a Final Plat, including without limitation, open space areas for screening or buffering. Any such fences, retaining walls, screening landscaping and/or sprinkler systems shall be the property and maintenance responsibility of the Owner of the Lot on which such fences, retaining walls, screening landscaping and/or sprinkler systems are erected or installed, subject to the easements and rights of Declarant and the Association set forth herein. With respect to any fencing installed within a Lot that is adjacent to a thoroughfare, the Association shall have the exclusive right to stain the exterior of such fence facing the thoroughfare whenever, in the Board's sole and absolute discretion, it deems necessary or responsibility for maintenance of said wall is placed upon the Association per the recorded Final Plat. ***The Declarant and the Board retain special and unique rights and privileges relating to the maintenance and repair of any Subdivision perimeter fencing, screening fencing, entry monuments and / or walls. Which may include, without limitation, the following: Masonry walls and columns along LakePointe Boulevard, board –on- board fencing (installed by Declarant), ornamental metal fencing with or without berms and / or living screening, fencecrete walls and retaining walls. The Declarant and the Board in their sole and absolute discretion shall have the right, power and authority to perform any action deemed necessary including without limitation to: maintain, replace, repair, stain, paint and / or any other action required to preserve such, Subdivision perimeter fencing, screening fencing, entry monuments, walls and / or other similar appurtenances.***

(b) **The Design Guidelines contain all construction and materials requirements for the walls adjacent to the Common Properties and any thoroughfare which may be written or provided by exhibits attached to the Design Guidelines for reference**. The Association may include costs for maintenance, repairs and/or replacement required by this **Section 4.1** to be included in the expenses of the Association to be paid by levying of Annual Assessments.

Section 4.2 Landscaping. Declarant and/or the Association shall have the right, but not the obligation, to grade, plant and/or landscape and maintain, repair, replace and/or change such grading, planting and landscaping on any portion of the Property not comprising any portion of a Lot and to maintain all landscaping, buffering, screening, irrigation and associated improvements adjacent to the Subdivision along public thoroughfares as required by the City (and including without limitation, open space area for screening or buffering), without limitation whatsoever, to do all things necessary within the Property to obtain full compliance with applicable City ordinances. The Association may include costs for maintenance, repairs, replacement and/or changes required by this **Section 4.2** to be included in the expenses of the Association to be paid by levying of Annual Assessments.

Section 4.3 Easement. Declarant and the Association shall have, and hereby reserve, the right and easement to enter upon the Common Properties and those Lots which are situated along the perimeter of the Property and/or the Common Properties as shown on a Final Plat, or the Lots adjacent to a thoroughfare, for the purpose of exercising the discretionary rights set forth in this **Article IV**.

Section 4.4 Declarant and the Association's Discretion. Notwithstanding any provisions herein to the contrary, and except as otherwise set forth herein, neither Declarant nor the Association shall ever be obligated to erect, install, maintain, repair or replace any fences, walls, sprinkler systems, grading, planting or landscaping on the Property.

Section 4.5 Twenty-Five (25) Year Limitation. The provisions of this **Article IV** regarding Declarant's rights shall terminate and be of no further force and effect from and after that date which is twenty-five (25) years after the recording of this Declaration. The rights of the Association shall continue throughout the term hereof.

## ARTICLE V.
## LOT MAINTENANCE BY OWNERS

Section 5.1 Lot Maintenance. After the installation of the landscaping on a Lot by a Builder or Owner, the Owner of the Lot shall thereafter maintain the yard in a sanitary and attractive manner, including adequate watering and immediate replacement of dead vegetation and trees, and shall edge the street curbs that run along the Lot boundary lines. Yards must be kept mowed, trimmed, and edged at regular intervals so as to maintain the Lot in a neat and attractive manner. No vegetables shall be grown in any portion of a Lot yard that faces a street or is not screened by fencing built in accordance with the terms hereof. Grass shall not be permitted to grow to a height of greater than four inches (4") upon any Lot. Dead grass/turf and unsightly weeds must be addressed and remedied. A weed treatment program is recommended. If weeds become unsightly, tall, or out of control, the Owner will be required to treat for weeds in a manner that will bring the lawn into a sanitary and attractive manner. The Association is hereby authorized to perform self-help actions on any Lot wherein an Owner has been noticed of non-compliance and fails to correct any non-conforming item within the time allotted. All such costs shall be billed back to the Owner's account as a Special Individual Assessment and shall be collected in the same manner as any other Assessment amount due.

Section 5.2 Maintenance of Improvements. Each Owner (i) shall maintain the exterior of all buildings, fences, retaining walls and other improvements on his Lot in good condition and repair at all times, (ii) shall replace worn and rotten parts, (iii) shall regularly repaint all painted surfaces, and (iv) shall not permit the roofs, rain gutters, down spouts, exterior walls, windows, doors, walks, driveways, parking areas or other exterior portions of the improvements to deteriorate or exist in an unattractive manner. All fences shall be kept neat, clean and in good repair at all times. Broken panels and pickets or fallen or leaning panels must be repaired immediately. No Owner is allowed to install or have only a portion of his Lot fenced (excluding the front yard or areas wherein fencing is prohibited). The Association is hereby authorized to perform self-help actions on any Lot wherein an Owner has been noticed of non-compliance and fails to correct any non-conforming item within the time allotted. All such costs shall be billed back to the Owner's account as a Special Individual Assessment and shall be collected in the same

manner as any other Assessment amount due.

## ARTICLE VI.
## ENFORCEMENT

Section 6.1 Special Enforcement Rights of the Board of the Association. In the event an Owner or an Owners guests, invitees, or tenants, fails to comply with any provision of this Declaration, the Rules, or the Design Guidelines, including but not limited to any requirement contained in **Article V**, then, prior to the Board or the Association enforcing the compliance of such failure or seeking against such Owner remedies in accordance with this Declaration (or such other remedies as may be available to the Board and/or the Association at law or in equity), the Board shall first be obligated to give such Owner notice of such failure and a reasonable time of not less than five (5) or more than (10) days or as may be determined by the Board to cure said violation. If the Owner, or the Owner's occupants or tenants in the event the home is leased or rented, shall not have corrected such failure within the time given, the Board of Directors shall have the right, but not the obligation, to assess monetary fines and/or enter upon the Lot to bring the Lot, and any improvements thereon, into full compliance with this Declaration, the Design Guidelines, or any Rules. The Board of Directors shall establish a Notice and Hearing; Schedule of Fines which shall govern the notice and fine process including the fine amounts which may be levied. All costs and expenses incurred by the Association in connection with correcting any such failure shall be borne by the Owner. If any Owner does not promptly reimburse the Association for all such costs, expenses and violation fines assessed after receipt of written request for same, the Board shall have the right to assess the Owner for same plus interest, such assessment, interest and fines being a Special Individual Assessment under the provisions of **Section 10.6** below. Monetary fines may be levied in lump sums or in increments notwithstanding, there shall be a maximum fine of $1,000.00 depending upon the severity of the violation and any historical factors such as reoccurring violations. The minimum fine for any violation shall not be less than $50.00 regardless of whether the fine is levied in a lump sum or increments. Each occurrence shall constitute a new violation regardless of whether it is a repeat violation or not.

Section 6.2 Enforcement. (a) In addition to but not in lieu of the enforcement rights set forth in **Section 6.1**, the Board of Directors may impose sanctions for violation of this Declaration (including any rules, guidelines or standards adopted pursuant to the Declaration) in accordance with the applicable procedures set forth in any policy or procedure adopted by the Board. Such sanctions may include all remedies available at law and/or in equity and all remedies herein, including, without limitation, the following:

(i) Fines. The Board of Directors may impose reasonable monetary fines which shall constitute a lien against the Owner's Lot and a personal obligation of the Owner of the Lot related to or connected with the alleged violation. The Owner shall be liable for the actions of any occupant, guest, or invitee of the Owner of such Lot. The Board of Directors may, but is not required to, provide a copy of the notice of violation to any tenant. Notwithstanding the foregoing, the Owner shall be responsible for the abatement of a violation and payment of any fine, if applicable.

(ii) Suspension of Rights to Use the Common Properties. The Board of Directors may suspend any person's or entity's right to use any recreational facilities

within the Common Properties; provided, however, nothing herein shall authorize the Board of Directors to limit ingress or egress to or from a Lot. Owners who lease or rent their homes shall be responsible for all occupants/tenants.

(iii) Right to Require Removal. The Board of Directors may require an Owner, at the Owner's expense, to remove any dead tree, landscaping, or other non-conforming item or structure from an Owner's Lot and to restore or install the necessary trees or landscaping as required by this Declaration or the Rules. Upon failure of the Owner to do so, the Declarant or Board of Directors or its designee shall have the right to enter the Lot, remove and cure the violation without such action being deemed a trespass, and charge the costs thereof to the Owner's account as a Special Individual Assessment in accordance with **Section 10.6** below.

(iv) Levy Special Individual Assessment. The Board of Directors may levy a Special Individual Assessment in accordance with **Section 10.6** as a violation fine and/or to cover costs incurred by the Association in bringing a Lot into compliance with this Declaration, the Design Guidelines or the Rules. **Owners leasing or renting their homes shall be responsible for their occupants/tenants, and all fines shall be the responsibility of the Owner**.

(v) Lawsuit; Injunction or Damages. (a) The Board of Directors may bring a suit at law or in equity to enjoin any violation or to recover monetary damages, or both. Failure by Declarant or the Board of Directors to enforce any covenant, condition, agreement or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In addition to the Association's enforcement rights, this Declaration may be enforced by any aggrieved Owner.

(b) The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case: (i) the Association's position is not strong enough to justify taking any or further action; (ii) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with Applicable Law; (iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or (iv) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

## ARTICLE VII.
## AMENDMENT AND TERMINATION

Section 7.1 Amendment. (a) During the Declarant Control Period, this Declaration may be amended by Declarant at any time and for any reason without the consent or joinder of any party or without the need to call a meeting of the Association. In addition to the foregoing, the Declaration may be amended by an instrument containing such amendment(s) and recorded in the Official Public Records of the County, provided that (i) during the period Declarant owns at least one Lot, no such amendment shall be valid or effective without the joinder and consent of

Declarant, and (ii) after expiration of the Declarant Control Period, such amendment shall first be approved by the affirmative vote or written consent of the Association's Members representing at least 51% of the votes in the Association voting, in person or by proxy, at a duly convened meeting of the Association. Furthermore, Declarant or the Board may, in its sole discretion and without a vote or the consent of any other party, modify, amend, or repeal this Declaration: (i) as necessary to bring any provision into compliance with any Applicable Law or judicial determination; (ii) as necessary to comply with the requirements of VA or HUD (Federal Housing Administration), FHLMC or FNMA or any other applicable governmental agency or secondary mortgage market entity; or (iii) as necessary for clarification or to correct technical, typographical or scrivener's errors; provided, however, any amendment pursuant to clause (ii) and/or (iii) immediately above must not have a material adverse effect upon any right of any Owner. Any amendment to this Declaration must be recorded in the Real Property Records of the County.

(b) No amendment may remove, revoke, or modify any right or privilege of Declarant or the Class B Member without the written consent of Declarant or the Class B Member, respectively (or the assignee of such right or privilege). If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that the Owner has the authority to consent, and no contrary provision in any mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Section 7.2 Termination. At any time, the Owners may terminate and extinguish this Declaration in its entirety by executing an instrument terminating this Declaration and recording same in the Official Public Records of the County, **provided, however, that (i) during the period in which Declarant owns at least one Lot, no such termination shall be valid or effective without the joinder and consent of Declarant** and (ii) such termination and extinguishment shall first be approved in writing by the City and by the affirmative vote or written consent of the Association's Members representing at least 75% of the votes in the Association.

## ARTICLE VIII.
## MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 8.1 Membership. Every Owner of a Lot shall automatically be a Member of the Association. Membership shall be appurtenant to each Lot, shall run with title to each Lot, and may not be separated from ownership of any Lot which is subject to Assessment hereunder by the Association. **Membership is mandatory and is not contingent upon the existence of or construction of any, residence, common element or amenity.**

Section 8.2 Classes of Membership. The Association shall have two (2) classes of voting membership:

CLASS A. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership; provided, however, that in the event that more than one (1) person holds such interest or interests in any Lot, even though all such persons shall be Members, there shall be only one (1) vote for such Lot, which shall be exercised as they, among themselves, determine (but in no event shall more than one (1) vote be cast with respect to any such Lot).

CLASS B. The Class B Member shall be the Declarant and any Co-Declarant, who shall be entitled to twenty (20) votes for each Lot owned by such Declarant. Subject to the conditions set forth in the remainder of this paragraph, the Class B membership applicable to the Declarant's Property shall be converted to Class A membership upon the earlier of (i) the sale or transfer of the last Lot owned by Declarant, (ii) fifteen (15) years from this filing, or (iii) the recording in the Records of Collin County, Texas, of a notice signed by the Declarant terminating its Class B membership. In determining the number of Lots owned by the Declarant for the purpose of Class B membership status hereunder, the total number of Lots covered by this Declaration shall be considered and any undeveloped land shall be assumed to be developed into the number of Lots which could be developed in such land based on the latest preliminary plat of such land, and Declarant shall vote such number of Lots as if the Lots had already been developed.

Section 8.3 Quorum and Notice Requirements.

Except as expressly provided herein to the contrary, any action of the Members shall require the assent of a majority of the votes of those Association Members who are present at a meeting, in person or by proxy, written notice of which shall be given to all Members not less than ten (10) days nor more than sixty (60) days in advance of such meeting.

A quorum is required for any action referred to in **Section 8.3.1** and, unless otherwise provided, for any action for which a percentage vote at a meeting is required. A quorum shall be determined as set forth in this **Section 8.3.2**. All meetings wherein the presence of Members, in person or by proxy, are required, whether regular or special, entitled to cast at least ten percent (10%) of all of the votes of the Association's Members, **without regard to class**, shall constitute a quorum. If the required quorum is not present at the initial meeting, additional meetings may be called, subject to the notice requirement hereinabove set forth, and the required quorum at such subsequent meeting(s) shall be one-half (1/2) of the quorum requirement for such prior meeting. The Association may call as many subsequent meetings as may be required to achieve a quorum (although the quorum requirement shall be reduced for each such meeting, in no event shall a quorum be less than one-tenth (1/10) of the votes of the Association). At such adjourned or subsequent meeting at which a quorum shall be present or represented, any business may be transacted which may have been transacted at the meeting as originally notified.

Except as specifically set forth in this Declaration, notice, voting and quorum requirements of any action to be taken by the Association shall be set forth in its Bylaws, as same may be amended from time to time.

Section 8.4 Right of Inspection. Each Owner shall have the right to inspect the financial records and books of the Association, during normal business hours and at the place where such books are kept, upon reasonable prior written notice to the Association stating a proper purpose in accordance with Section 209.005 of the Texas Property Code, as amended, and pursuant to the Open Records Policy established by the Association.

## ARTICLE IX.
## THE COMMON PROPERTIES

Section 9.1 Initial Common Properties. The Common Properties may include, but are not limited to and by way of illustration only, all aspects of the entry features, entry monuments and walls, landscaping, irrigation for same and the land on which such entry features are situated, retention ponds, screening walls, pocket parks, picnic areas, sports fields, walkways, drainage detention or retention areas, pool, a clubhouse and associated recreational amenity, gates, fences, fountains and other structures, whether or not shown on a Final Plat, or as deemed necessary by Declarant, each as may be leased, maintained, or owned by the Association. ***The foregoing list is intended to illustrate examples of Common Properties and under no circumstance shall such list impose any obligation on the Declarant or the Association to purchase, install or construct any such items, improvements, features or amenities***. The Common Properties may hereafter include any neighborhood parks or other improvements or land conveyed to or leased by the Association for the use and benefit of the Owners. Declarant, at its sole discretion, may transfer to the Association, and the Association shall accept as Common Properties, personal property and/or fee title or other property interests any improved or unimproved real property included within the Property described in **Exhibit "A"**.

Section 9.2 Additional Common Properties. Additional property may be added to the Common Properties hereunder upon the sole discretion of Declarant during the Declarant Control Period. Thereafter, additional property may be added to the Common Properties hereunder upon the affirmative vote of sixty-seven percent (67%) of the votes of those Association Members who are voting, in person or by proxy, at a meeting duly called for such purpose, and by Declarant as long as Declarant owns one (1) Lot within the Subdivision.

Section 9.3 Acceptance and Control of Common Properties. Declarant, or any third-party at the request of Declarant, may transfer to the Association, and the Association shall accept as Common Properties, personal property and/or fee title or other property interests in any improved or unimproved real property included within the Property described in **Exhibit "A"** or any other real property made subject to this Declaration in the future. Upon Declarant's written request, the Association shall transfer back to Declarant any unimproved real property originally conveyed to the Association for no payment, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines. ***Whether or not the Common Properties have been transferred or conveyed to the Association, Declarant shall have no responsibility for maintenance, repair, replacement, or improvement of the Common Properties or any improvements thereon after initial construction thereof.***

Section 9.4 Extent of Members' Easement in the Common Properties. Each Member shall have a right and easement of access, use and enjoyment in and to the Common Properties, subject to the following:

The right of the Association to prescribe Rules governing the use, operation and maintenance of the Common Properties;

The right of the Association to take such steps as is reasonably necessary to protect the Common Properties against foreclosure;

The right of the Association to suspend the right of **any** individual, including occupants/tenants, to use any of the Common Properties and/or common facilities for any

period during which any Assessment against a Lot resided upon or owned by such individual remains unpaid, and for any period not to exceed sixty (60) days for an infraction of the Rules of the Association, the Declaration, or the Design Guidelines; and

The right of the Association to charge reasonable admission and other fees for the use of recreational facilities on the Common Properties, if any such recreational facilities are ever constructed.

An Owner who does not occupy a Lot delegates this right of enjoyment to the tenants or occupants of such Owner's Lot. Notwithstanding the foregoing, if a portion of the Common Properties, such as a recreational area, is designed for private use, the Association may temporarily reserve the use of such area for certain persons and purposes pursuant to the Rules, if any.

Section 9.5 Dedication of the Common Properties. The Board of Directors shall have the right at any time to dedicate or transfer all or any part of the Common Properties to any public agency, authority or utility for such purposes and upon such conditions as the Board of Directors may determine, provided that the City or applicable utility provider has issued acknowledgement and agreement, in writing, to the proposed dedication or transfer.

Section 9.6 Security. The Association **may, but is not obligated to**, maintain or support certain activities within the Property designed, either directly or indirectly, to improve safety in or on the Property. Each Owner acknowledges and agrees, for himself and his tenants, immediate family, guests, agents, permittees, and licensees, that Declarant, the Association, the managing agent (if any) and their respective directors, officers, committees, agents, and employees are not providers, insurers, or guarantors of security within the Property. Each Owner acknowledges and accepts his sole responsibility to provide security for his own person and property, and any tenants, immediate family, guests, agents, permittees, and licensees of such Owner, and assumes all risks for loss or damage to same. Each Owner further acknowledges that Declarant, the Association, its managing agent (if any) and their respective directors, officers, committees, agents, and employees have made no representations or warranties, nor has the Owner relied on any representation or warranty, express or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire, burglar, and/or intrusion systems recommended or installed, or any security measures undertaken within the Property. Each Owner acknowledges and agrees that Declarant, the Association, its managing agent (if any) and their respective directors, officers, committees, agents, and employees may not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

Section 9.7 Risk. **EACH OWNER, OWNERS' TENANTS, IMMEDIATE FAMILY, GUESTS, AGENTS, PERMITTEES, AND LICENSEES SHALL USE ALL COMMON PROPERTIES AT HIS/HER OWN RISK. ALL COMMON PROPERTIES ARE UNATTENDED AND UNSUPERVISED. EACH OWNER, OWNERS' TENANT, IMMEDIATE FAMILY, GUEST, AGENT, PERMITTEE, AND LICENSEE IS SOLELY RESPONSIBLE FOR HIS/HER OWN SAFETY AND ASSUMES ALL RISK OF LOSS IN CONNECTION WITH THE USE OF COMMON PROPERTIES AND RELATED AMENITIES AND IMPROVEMENTS WITHIN THE SUBDIVISION. NEITHER THE ASSOCIATION NOR THE DECLARANT, NOR ANY MANAGING AGENT ENGAGED**

**BY THE ASSOCIATION OR DECLARANT, NOR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, COMMITTEES, AGENTS AND EMPLOYEES, SHALL HAVE ANY LIABILITY TO ANY OWNER OR THEIR TENANTS, FAMILY MEMBERS OR GUESTS, OR TO ANY OTHER PERSON OR ENTITY, ARISING OUT OF OR IN CONNECTION WITH THE USE, IN ANY MANNER WHATSOEVER, OF THE COMMON PROPERTIES OR ANY IMPROVEMENTS COMPRISING A PART THEREOF FROM TIME TO TIME, AND THE ASSOCIATION, DECLARANT AND MANAGING AGENT DISCLAIMS ANY AND ALL LIABILITY OR RESPONSIBILITY FOR INJURY OR DEATH OCCURRING FROM USE OF THE COMMON PROPERTIES.**

Section 9.8 Rights of the City. The City, including its agents and employees, has the right of immediate access to the Common Properties at all times if necessary for the welfare or protection of the public, to enforce City ordinances, or for the preservation of public property.

## ARTICLE X.
## COVENANT FOR ASSESSMENTS

Section 10.1 Creation of the Lien and Personal Obligation of Assessments. (a) Each Owner hereby covenants and agrees, and each purchaser of any Lot by acceptance of a deed therefore, 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 (or to a mortgage company or other collection agency designated by the Association) the following: (a) annual assessments or charges ("**Annual Assessments**"); (b) assessments assessed upon the acquisition of a Lot by an Owner other than Declarant for working capital, acquisition assessments or reserves ("**Working Capital Contributions**"); (c) special assessments for capital improvements and unanticipated costs of the Association or related to the performance of the Associations duties and responsibilities hereunder ("**Special Assessments**"); (d) special individual assessments (including, without limitation interest and fines) levied against individual Owners for violations of the Declaration, Design Guidelines, Rules, or Community-Wide Standard or to reimburse the Association for extra costs for maintenance and repairs caused by the willful or negligent acts of the individual Owner, his tenant(s) occupying his Lot, if applicable, and their respective family, agents, guests and invitees, or for costs incurred by the Association resulting from any Owner failing to comply with the terms and provisions hereof, or for costs for maintenance and repairs of Common Properties that benefit some but not all Owners (i.e. cluster mailbox maintenance) ("**Special Individual Assessments**"). The Annual Assessments, Working Capital Contributions, Special Assessments, and Special Individual Assessments are herein generally referred to as an "**Assessment**" and collectively (whether two or more) as the "**Assessments**". All such Assessments shall be fixed, established and collected as hereinafter provided.

(b) The Assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on and continuing lien upon each Lot against which each such Assessment is made. Each such Assessment, together with late charges, collection costs, such interest thereon and cost of collection thereof, including attorneys' fees, as hereinafter provided, shall also be the continuing personal obligation of the person who was the Owner of such Lot at the time when the Assessment fell due.

(c) Fines, not to exceed $1,000.00 per occurrence, shall be assessed as a Special Individual Assessment upon the expiration of a reasonable time after the date notice of such violation was sent to the violating Owner. In all instances of violations, the Owner shall be responsible for correcting such violation within a reasonable time after the date of such notice, regardless as to whether the residence is occupied by the Owner or a tenant. The lien provided for herein shall secure payment of fines not timely paid as a Special Individual Assessment and the Owner shall also have personal liability for the payment of same.

Section 10.2 Purpose of Assessments. The Assessments levied by the Association shall be used (a) to promote the interests of the Association and the recreation, health and welfare of the residents of the Property, (b) for the improvement and maintenance of the Common Properties, including without limitation entry ways and any other properties, services and facilities devoted to this purpose and comprising or directly relating to the use and enjoyment of the Common Properties, (c) to pay taxes on and insurance for or in connection with the Common Properties, (d) to pay for the repair, replacement and additions of the Common Properties, (e) to pay for labor, equipment (including the expense of leasing any equipment) and materials required for, and the management and supervision of, the Common Properties, (f) for carrying out the duties of the Board of Directors as set forth in **Article XI** hereafter including, but not limited to, the payment by the Association of all assessments and charges payable in connection with sewer, water and garbage pickup services and the installation and maintenance of lighting (if any) of the Common Properties, (g) for paying the cost of maintenance of the monument sign for the Property, if any, in the event the appropriate governmental authority refuses to maintain the same, and (h) for carrying out the purposes of the Association as stated in its Certificate of Formation, the Bylaws and this Declaration. *The list above is not intended to be construed as an all-inclusive list, but is provided for informational purposes based on the most common expenses incurred by an Association.*

Section 10.3 Basis and Amount of Annual Assessments.

The Board of Directors may fix the Annual Assessment at any amount equal to or less than the Maximum Annual Assessment for that year, as herein below provided. The Annual Assessment for each Lot beginning with the year 2020 is estimated to be **Seven Hundred Fifty and No/100 Dollars ($750.00), due annually**; provided that the actual amount of the initial Maximum Annual Assessment shall be determined by the Declarant upon finalization of the initial budget of the Association. Commencing with the year 2020 and each year thereafter, the Declarant during the Declarant Control Period, and the Board of Directors thereafter, may set the amount of the Annual Assessment for that year (and for following years) for each Lot provided that the Annual Assessment may not be increased more than fifty percent (50%) above the Annual Assessment for the previous year unless a greater increase of the Annual Assessment is approved by a vote of the membership taken in accordance with the provisions of **Section 10.3.2**, and provided further that the Annual Assessment for the calendar year in which any major Common Properties (i.e. pool and clubhouse facilities) that operate at significant additional expense to the Association may be increased in excess of fifty percent (50%) above the Annual Assessment for the previous year without approval of the Members with respect to increases attributable to the additional operating expense of such major Common Properties (such increased Annual Assessment as permitted or approved by the Members being referred to herein as the "**Maximum Annual Assessment**" for such calendar year).

Commencing with the year 2020, and in each year thereafter, Declarant during the Declarant Control Period, and the Board of Directors thereafter, may set the Maximum Annual Assessment for the following year for each Lot at an amount in excess of fifty percent (50%) above the Maximum Annual Assessment for the previous year; provided that any such increase in excess of fifty percent (50%) shall require the affirmative vote of fifty-one percent (51%) of the votes of those Association Members who are voting, in person or by proxy, regardless of class, at a meeting duly called for such purpose.

Section 10.4 Working Capital Contribution. (a) At any time record title is transferred to any Owner (excluding Declarant), a minimum of a Transfer Fee and Working Capital Contribution shall be paid to the Association. Builders acquiring a Lot from Declarant shall pay the following:

(i) A Builder acquiring a Lot from the Declarant shall pay to the Association or its managing agent (A) a "**Transfer Fee**" (herein so called) in the amount of **One Hundred Twenty Five and No/100 Dollars ($125.00)**, and (B) a "**Working Capital Fee**" in the amount of **One Hundred Fifty and No/100 Dollars ($150.00) for each Lot acquired. The Working Capital Fee shall be placed in a general reserve to help establish the maintenance fund and may also be used for any Association needs or business as the Board may deem necessary or appropriate.**

(ii) All other Owners (other than Builder or a Declarant) acquiring a Lot in any transfer of ownership shall pay to the Association or its Agent (A) a Transfer Fee for each Lot acquired in an amount to be determined by the Agent and as listed on the resale certificate, and (B) a Working Capital Fee in the amount of **Three Hundred Fifty and No/100 Dollars ($350.00) for each Lot acquired**. The Board may waive the Working Capital Fee for transfers of ownership to a child or family member or under certain other circumstances which shall be reviewed upon written request only and considered on a case by case basis. Any waiver of such fees is at the sole discretion of the Board.

(b) Transfer Fees and Working Capital Fees shall be in addition to, not in lieu of, any other Assessments provided for herein. Working Capital Fees are not refundable and shall be available for all necessary expenditures of the Association as determined by the Declarant and thereafter, the Board.

(c) In addition to the foregoing but still considered an Assessment hereunder, the Board may, at its sole discretion, enter into a contract with a managing agent to oversee the daily operation and management of the Association. The managing agent may, and probably will, have fees, which will be charged to an Owner for the transfer of a significant estate or fee simple title to a Lot and the issuance of a "**Resale Certificate**" (herein so called). The Association or its agent shall not be required to issue a Resale Certificate until receipt of written request therefor and the payment Resale Certificate charge. Transfer Fees and fees for the issuance of a Resale Certificate shall in no event exceed the amount of the current Annual Assessment applicable at the time of the transfer/sale, and are not refundable and may not be regarded as a prepayment of or credit against any Assessments.

(d) This **Section 10.4** does not obligate the Board or any third party to levy such fees.

Section 10.5 Special Assessments. The Association may also levy in any calendar year a Special Assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the costs of any construction or reconstruction, maintenance, unexpected or unbudgeted repair or replacement of a described capital improvement upon the Common Properties, a common element or any amenity, including the necessary fixtures and personal property related thereto; provided that any such Special Assessment shall not exceed fifty percent (50%) of the then current Annual Assessment. Special Assessments greater than fifty percent (50%) of the Current Annual Assessment shall be approved by the affirmative vote of fifty-one percent (51%) of the votes of the Association Members who are voting, in person or by proxy, at a meeting duly called for such purpose.

Section 10.6 Special Individual Assessments, Interest and Fines. In the event that any Owner fails to comply with the provisions of this Declaration, the Design Guidelines, the Community-Wide Standard or the Rules and/or the Association incurs any cost or expense in either enforcing said provisions against any such Owner or in carrying out the obligations of any such Owner, the Association shall have the right to assess against such Owner and the Lot of such Owner a Special Individual Assessment in the amount of all such costs incurred by the Association plus interest and/or in the amount of any violation fine(s) levied by the Board. Special Individual Assessment, interest and fines shall be paid by the applicable Owner upon demand by the Association.

Section 10.7 Uniform Rate of Assessments. Both Annual Assessments and Special Assessments (excepting therefrom Special Individual Assessments) shall be fixed at a uniform rate for all Lots.

Section 10.8 Date of Commencement and Due Dates of Assessments. (a) The obligation to pay Assessments commences as to each Lot upon acquisition of record title to a Lot by the Owner thereof other than Declarant. The initial Annual Assessment levied on each Lot shall be adjusted according to the number of months remaining in the fiscal year at the time the initial Annual Assessment commences on the Lot. Annual Assessments shall be payable in advance on the first (1st) business day of each January, provided that if the Board so elects, Annual Assessments may be paid in monthly, quarterly, or semi-annual installments. The Board may require advance payment of all or any portion of the Annual Assessment at the closing of the transfer of title to a Lot.

(b) The due date or dates, if it is to be paid in installments, of any Special Assessment under **Section 10.5** shall be fixed in the respective resolution authorizing such Special Assessment.

Section 10.9 Duties of the Board of Directors with Respect to Assessments.

The Board of Directors shall fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each calendar year in which such Annual Assessment shall apply and shall, at that time, prepare a roster of the Lots and Assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection

by any Owner.

If any Assessment changes from the amount charged for the previous year, written notice of the revised Assessment shall thereupon be delivered or mailed to every Owner subject thereto (according the Association's then current records).

The Board of Directors shall, upon demand, cause to be furnished to any Owner liable for said Assessments a certificate in writing signed by an officer or agent of the Association, setting forth whether said Assessment has been paid. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid. A reasonable charge may be made by the Board or the Association's managing agent for the issuance of such certificates.

Section 10.10 Assessment Lien to Secure Charges and Assessments. All Assessments, interest, late charges, collection fees and attorneys' fees, as provided for herein, shall constitute and be secured by a separate and valid and subsisting assessment lien, hereby created and fixed, and which shall exist upon and against each Lot and all improvements and fixtures thereon, for the benefit of the Association. Notwithstanding any other provision hereof, the lien to secure the payment of Assessments or any other sums due hereunder and any other lien which the Association may have on any Lot pursuant to this Declaration shall be subordinate to the lien or equivalent security interest of any first lien mortgage or deed of trust on any Lot. 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 extinguish the liens securing Assessments or any other sums due hereunder which became due and payable prior to such foreclosure date, but no such foreclosure shall free any Lot from the liens securing Assessments thereafter becoming due and payable, nor shall the liability of any Owner personally obligated to pay Assessments be extinguished by any foreclosure, nor shall the lien for future Assessments or charges be affected in any manner.

Section 10.11 Effect of Nonpayment of Assessment. (a) If any Assessment is not paid within thirty (30) days from the due date thereof, (i) the same shall bear interest from time to time, at the sole discretion of the Board, from the due date until paid at the highest non-usurious rate allowed under the laws of the State of Texas, or other Applicable Law, or if no such limitation is imposed then at the rate of fifteen percent (15%) per annum, (ii) if placed in the hands of an attorney for collection or if collected through probate or other judicial proceedings, the Owner shall reimburse the Association all reasonable attorneys' fees and other costs incurred by the Association, (iii) should any Assessment provided for herein be payable in installments, the Association may accelerate the entire Assessment and demand immediate payment thereof, and (iv) a late charge shall be assessed against the non-paying Owner in the amount of **Twenty-Five and No/100 Dollars ($25.00)** per month and shall serve to reimburse the Association for administrative expenses and time involved in collecting and processing delinquent Assessments.

(b) A charge of **Twenty-Five and No/100 Dollars ($25.00),** or a greater amount equal to the actual bank charges, shall be assessed against an Owner for any payment returned for insufficient funds or for any other reason.

(c) ***The Association's managing agent shall be entitled to charge an Owner a monthly collection fee(s) to compensate managing agent for its efforts in collecting delinquent Assessments. The managing agent shall be entitled to reimbursement for any collection efforts performed, and in addition may charge a fee for the setup, processing and monitoring of a payment plan as well as processing and handling of certified or certified, return receipt mailings, and credit reporting.***

(d) The Association, in the Board's discretion, shall have the right to waive any part of or all of such interest and/or fees owed only to the Association.

Section 10.12 Collection and Enforcement. (a) The Association shall have a lien on each Lot securing payment of any Assessment, together with interest thereon as provided herein, reasonable attorneys' fees, late charges, collection fees and costs incurred in the collection of same and the enforcement of said lien. The Board of Directors shall take such action as it deems necessary to collect Assessments and may settle and compromise the same if deemed appropriate in the exercise of the Board's business judgment. Such liens shall be effective as and in the manner provided for herein, and shall have the priorities established in this Declaration.

(b) The Board of Directors may bring an action at law against any Owner personally obligated to pay an Assessment or foreclose the lien against such Owner's Lot, or both, and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such Assessment. By acceptance of a deed to a Lot, each Owner hereby expressly vests in the Board of Directors of the Association or its agent the right and power to bring all actions against such Owner personally for the collection of such Assessments as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including, but not limited to, nonjudicial foreclosure pursuant to Texas Property Code Section 51.002 in force and effect on the date of this Declaration, or in accordance with the prescribed manner for foreclosure of deed of trust liens provided by any future amendment to such Section 51.002 or any other statute or article enacted in substitution therefore, and such Owner hereby expressly grants to the Board of Directors a private power of sale in connection with said lien. The Board is hereby appointed trustee, unless and until the Board of Directors shall designate a substitute or successor trustee as hereinafter provided, to post the required notices as provided by law and conduct such foreclosure sale. The lien provided for in this **Section 10.13(b)** shall be in favor of the Association and shall have the same effect as though each Owner had expressly granted to the Association a deed of trust lien as well as a security interest in said Lot to secure the payment of the Assessments provided for herein. In addition to such notices as required by the aforesaid statute, the trustee shall mail to the Owner of a Lot for which the Assessment has not been paid, a copy of the notice of Assessment lien prior to the date any notice of sale is posted, by certified mail, return receipt requested, at the Lot or such other address as the Board has been advised in writing for receipt of notices under this Declaration. Notwithstanding the foregoing, any mandatory foreclosure requirements of Section 209 of the Texas Property Code shall be adhered to by the foreclosing entity.

(c) At any foreclosure sale, judicial or nonjudicial, the Association shall be entitled to bid up to the amount of its lien, together with costs and attorneys' fees, and to apply as cash credit against its bid all sums due the Association covered by the lien foreclosed. All foreclosure sales provided for herein shall be subject to any then existing statutory right of redemption in favor of the former Owner. From and after any such foreclosure, the former Owner or Owners, their heirs

and assigns, shall forthwith upon the making of such sale surrender and deliver possession of the property so sold to the purchaser at such sale, and in the event of their failure to surrender possession of said property upon demand, the purchaser, or his heirs or assigns, shall be entitled to institute and maintain an action for forcible detainer of said property in the Justice of the Peace Court in the Justice Precinct in which such Lot, or any part thereof, is situated. The Board of Directors in any event is hereby authorized to appoint a substitute trustee, or a successor trustee, to act in the place of the trustee without any formality other than the designation in writing of a substitute or successor trustee; and the authority hereby conferred by the Board of Directors shall extend to the appointment of other successor and substitute trustees successively until the delinquent Assessment or Assessments have been paid in full, or until said property is sold, and each substitute and successor trustee shall succeed to all the rights and powers of the original trustee appointed by the Board of Directors or its agents. Without limiting the foregoing, and in addition to the rights and remedies of the Association hereunder, the Association through its Board, or any managing agent may report delinquent owners to a credit reporting agency.

Section 10.13 Homestead. By acceptance of a deed thereto, the Owner of a Lot and spouse thereof, if married at the time of the conveyance or subsequently married, shall be deemed to have waived any exemption from liens created by this Declaration or the enforcement thereof by foreclosure or otherwise, which exemption may other be available by reason of the homestead exemption provisions of Texas law, if for any reason such are applicable. This **Section 10.13** is not intended to limit or restrict in any way the lien or rights granted to the Association by this Declaration but construed in its favor.

Section 10.14 Omission of Assessments. The omission of the Board of Directors, before the expiration of any calendar year, to fix the Assessments hereunder for that or the next calendar year, shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay the Assessments, or any installment thereof for that or any subsequent calendar year, but the Assessment fixed for the preceding Assessment period shall continue until a new Assessment is fixed or levied by the Board.

Section 10.15 Maintenance Fund; Working Capital Reserve Fund.

The Association may establish and maintain a separate maintenance fund for the periodic maintenance of the Common Properties. Subject to the provisions of **Section 10.3** above, the Board may at any time ratably increase or decrease the amounts of Annual Assessments in accordance with this Declaration to such level as shall be reasonably necessary in the judgment of the Board to cover obligations of the Association under this Declaration, including provisions for reasonable reserves. Notwithstanding anything contained herein, during the Declarant Control Period the Declarant is under no obligation to establish or fund a "**Working Capital Reserve**" (herein so called) or any other maintenance or reserve fund. So long as the Board exercises business judgment in determining the amount or necessity of the reserve fund, the amount held in reserves shall be considered adequate. ***During the Declarant Control Period the Working Capital Contribution outlined in Section 10.4 above may not be used or transferred to establish such a maintenance fund without the express written consent of the Declarant.***

The Association may establish an operating account for the initial operation of the Association and Common Properties into which Assessments and other fees, charges and amounts collected by the Association may be deposited for use by the Association for any purpose permitted hereunder or under Applicable Law and in such amount as the Board shall determine.

Section 10.16 Exempt Property. The following property subject to this Declaration shall be exempted from the Assessments, charges and liens created herein:

All properties dedicated to and accepted by any applicable governmental authority and devoted to public use; and

All Lots and/or Property owned by Declarant, subject to the terms of **Sections 10.17** and **10.18** below; and

All Common Properties.

Section 10.17 Declarant Subsidy. **Declarant shall not be responsible or liable for any deficit in the Association's funds**. The Declarant may, but is under no obligation to, subsidize any deficits or liabilities incurred by the Association (in addition to any amounts paid by Declarant under **Section 10.18** below), and the Declarant may, but is not obligated to, lend or advance funds to the Association to enable it to defray or pay its expenses, provided the terms of such loans are on reasonable market terms at the time. Any such loan, advance, subsidy or deficit funding shall, at Declarant's sole discretion, be repaid from future Assessments and may be evidenced by a promissory note or other memorandum of understanding.

Section 10.18 Declarant's Assessment. Notwithstanding any provision of this Declaration, the Certificate of Formation or the Bylaws to the contrary, so long as there is Class B membership in the Association, the Declarant may, on an annual basis, elect either to pay Annual Assessments on its unsold Lots or pay the difference between (a) the Association's operating expenses otherwise to be funded by Annual Assessments (after applying all income received by the Association from other sources), and (b) the sum of all Assessments and other revenues collected by the Association from all sources. Such difference, herein called the "**deficiency**" or "**deficits**", shall not include any reserve for replacements, operating reserves, depreciation reserves, capital expenditures or Special Assessments, and Declarant shall not be responsible, in any event, for any reserve including any reserve for replacements, operating reserves, depreciation reserves, reserves for capital expenditures or Special Assessments. Any sums paid by the Declarant to the Association to fund the "deficiency" or any sums paid by the Declarant to the Association in excess of the Annual Assessment otherwise due on the Declarant's unsold Lots may be considered to be a loan or advance to the Association pursuant to **Section 10.17** and shall be repaid to Declarant out of future Assessments. Declarant's obligations hereunder may be satisfied in the form of cash or by "in kind" consideration of services or materials, or by a combination of these. After termination of the Class B membership, Declarant shall pay Assessments on its unsold Lots in the same manner as any other Owner, except as otherwise expressly provided herein.

## ARTICLE XI.
## GENERAL POWERS OF THE BOARD OF DIRECTORS OF THE ASSOCIATION

Section 11.1 Power and Duties. Except as provided in **Article XII** below, the Board, for the benefit of the Association, the Property and the Owners, shall have the right to do all things which are necessary or advisable in connection with enforcing the provisions of this Declaration. **During the Declarant Control Period, the duties of the Board may be limited or restricted to certain functions in the Declarant's sole discretion**. Such powers may include, but shall not be limited to, the following:

Paying assessments and charges for sewer, water and garbage pickup services for the Property, if any, the installation and maintenance charges for street lighting for the Property, if any, and taxes, assessments and other charges which shall properly be assessed or charged against the Common Properties.

Performing maintenance on the Common Properties which may include, without limitation, the following: (a) maintenance of any driveways, private roadways, jogging paths, walkways and sidewalks; (b) maintenance of grounds, including care of trees, shrubs and grass, lighting systems, sprinkler systems (if installed) and similar facilities on the Common Properties; and (c) maintenance of the entry monument(s) and any screening and/or perimeter walls or fences; provided, further, that in the event that the need for maintenance or repair is caused through the willful or negligent act of any Owner, his family, his guests, tenants or invitees, the cost of such maintenance or repairs shall be added to and become a part of the Assessments to which such Lot is subject.

Managing and maintaining the Common Properties and full maintenance of any utility service for the Common Properties and the furnishing and upkeep of any desired personal property for use in the Common Properties.

Purchasing a policy or policies of insurance insuring the Association and the Common Properties against any liability to the public or to the Owners (and/or invitees or tenants) incident to the operation of the Association, in an amount not less than $250,000.00 to indemnify against the claim of one person, $500,000.00 against the claims of two or more persons in any one occurrence, and property damage insurance in an amount not less than $50,000.00 per occurrence; which policy or policies shall contain an endorsement providing that the rights of the named insured shall not be prejudiced with respect to actions against other named insured's; provided, that under no circumstances shall the Board be authorized to provide or pay for fire, casualty, or other insurance insuring the interest of any Owner in his Lot.

Executing all replats of the Property and all declarations of ownership for tax assessment purposes with regard to the Common Properties on behalf of all Owners.

Borrowing funds to pay costs of operation, secured by an assignment or pledge of rights against delinquent Owners, if the Board sees fit.

Entering into contracts, maintaining one or more bank accounts, and generally exercising

all the powers necessary or incidental to the operation and management of the Association, expressly including the power to enter into management and maintenance contracts which shall include Third Party Vendor Contracts which may be entered into at the sole discretion of the Board. Contracts entered into by the Declarant may have stricter or differing termination clauses. The Board may not terminate any contract during the Declarant Control Period without the express written consent of the Declarant.

Protecting or defending the Common Properties from loss or damage by suit or otherwise, and to provide adequate reserves for replacements.

Making reasonable Rules for the operation of the Common Properties and amend them from time to time by resolution, provided that any Rule may be amended or repealed by the majority vote of the Board (without limiting the generality of the foregoing language, the Rules may provide for limitations on use of the Common Properties during certain periods by youthful persons, visitors or otherwise).

Adjusting the amount, collecting and using any insurance proceeds to repair damage or replace lost property, and if proceeds are insufficient to repair damage or replace lost property, assessing the Members in proportionate amounts to cover the deficiency.

Enforcing the provisions of this Declaration, the Design Guidelines, any Community-Wide Standard, and any Rules made hereunder, including any Supplemental Declarations or amendments hereto or thereto, and enjoining and seeking damages from any Owner for violation of such provisions or rules.

Exercising the rights granted to the Association in this Declaration, including, without limitation, all rights of the Board, the Association, and the Reviewer relating to architecture, design, and construction approvals, reviews and inspections under **Article III**.

The Association may exercise any right or privilege given to it expressly or by reasonable implication by this Declaration, the Bylaws, or the Certificate of Formation, and may take action reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in such documents or by law, all of the Association's rights and powers may be exercised by the Board without a vote of the membership.

The Board may institute, defend, settle, or intervene on the Association's behalf in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Common Properties, enforcement of this Declaration, or any other civil claim or action. **However, the Board shall exercise business judgment in determining whether to take any such action under particular circumstance and shall have no legal duty to institute litigation or other proceedings under any circumstances on behalf of or in the name of the Association or the Members**.

Section 11.2 Board Power, Exclusive. The Board shall have the exclusive right to contract for all goods, services and insurance, payment for which is to be made from the maintenance or any other fund, and the exclusive right and obligation to perform the functions of

the Board, except as otherwise provided herein.

Section 11.3 Owner's Obligations to Repair. Except for those portions of each Lot constituting the Common Properties or areas to be maintained by the Association as outlined on the final recorded plat, each Owner shall at his sole cost and expense, maintain and repair his Lot and the improvements situated thereon, keeping the same in good condition and repair at all times. In the event that any Owner shall fail to maintain and repair his Lot and such improvements as required hereunder, the Association, in addition to all other remedies available to it hereunder or by law, and without waiving any of said alternative remedies, shall have the right but not the obligation, subject to the notice and cure provisions of **Section 6.1** above, through its agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and the exterior of the buildings and any other improvements erected thereon; and each Owner (by acceptance of a deed for his Lot) hereby covenants and agrees to repay to the Association the cost thereof immediately upon demand, and the failure of any such Owner to pay the same shall carry with it the same consequences as the failure to pay any Assessments hereunder when due.

Section 11.4 Maintenance Contracts with Owners. The Board, on behalf of the Association, shall have full power and authority to contract with any Owner for the performance by or for the Association of services pursuant to the terms hereof (including, but not limited to, the maintenance and repair of fences owned by any such Owner), such contracts to be upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interest of the Association; provided, however, that same must be commercially reasonable in all circumstances.

Section 11.5 Liability of the Board of Directors. The Association shall indemnify every officer, director, committee member, employee and agent against all damages and expenses, including attorneys' fees, incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding if approved by the Board of Directors at the time of such settlement) to which he or she may be a party by reason of being or having been an officer, director, or committee member.

**OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES AND AGENTS SHALL NOT BE LIABLE FOR ANY MISTAKE OF JUDGMENT, NEGLIGENCE OR OTHER ACTS, EXCEPT FOR THEIR OWN INDIVIDUAL WILLFUL MISFEASANCE, WILLFUL MALFEASANCE, WILLFUL MISCONDUCT, OR BAD FAITH. The Association's officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association. The Association shall indemnify and forever hold each such officer, director, and committee member harmless from and against any and all liability to others on account of any such contract, commitment, or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as an Association expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.**

Section 11.6 Notice and Hearing Procedures Prior to the Initiation of Certain Types of Actions by the Association. Except as set forth in paragraph (c) below, prior to filing suit to

enforce the provisions of any of the Governing Documents, the Association shall comply with the notice and hearing procedures set forth in subsections (a) and (b) below.

(a) Notice. The Association shall serve the alleged violator with a written notice describing (i) the nature of the alleged violation, (ii) the action which the Association proposes or intends to take unless the violation is corrected within a reasonable time (reasonable time being not less than five (5) nor more than ten (10) days for each notice), after the date of the written notice, and (iii) a period of not less than thirty (30) calendar days within which the alleged violator may present a written request by certified mail for a hearing. The Association may proceed with the action which may include the Association's right to initiate self-help actions (emergency situations or cases of health or safety concerns for person, property, or thing are excluded from the time constraints above) wherein the Association shall make the necessary repairs to correct the violation and all charges incurred by the Association in abating the violation shall be assessed to the Owner's account. Notwithstanding anything contained herein, if Owner presents a request for a hearing within the thirty (30) day time allotted, all fines for non-compliance shall be placed on hold and any further enforcement action shall be placed on hold until after the hearing date and the rendering of a decision at such hearing. Non-payment of fines for non-compliance or charges assessed by the Association for self-help remedies will be collected subject to Applicable Law and per current Texas Property Code regulations. Charges will be subject to possible late and/or collection charges when applicable. If the violation is abated within the time period set forth in the written notice, the Association shall suspend the proposed action unless a similar violation occurs within six (6) months from the date of the written notice. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Owner. Recurring violations within a six (6) month period will not require the Association to re-issue notices previously sent. If the required notice was previously sent, the Association may, at its discretion, send an immediate notice of fine warning to the Owner which must allow the Owner not less than five (5) nor more than ten (10) days to correct the violation. If Owner does not make the necessary corrections, the Association may begin fines and/or initiate self-help action without further notice required.

(b) Hearing. If a hearing is requested within the allotted thirty (30) day period, the hearing shall be held before a committee appointed by the Board consisting of three (3) persons, all of whom shall be Owners or residents of the Subdivision or representatives of the Declarant. A representative of the Association shall be afforded a reasonable opportunity to make a statement describing the alleged violation and to present any evidence or witnesses to support its statement. The alleged violator shall also be afforded a reasonable opportunity to be heard and to present any evidence or witnesses on his or her behalf. At the conclusion of all statements and presentations, the committee may close the hearing and retire to discuss the evidence and to render a judgment as to whether, in fact, a violation has occurred. The committee shall notify the Association and the alleged violator in writing of its determination within ten (10) days after the hearing. If the committee determines that a violation has occurred, the Association may pursue any and all remedies described in its original notice of the violation. The alleged violator shall have the opportunity to appeal the decision of the committee to the Board in accordance with Section 209.007 of the Texas Residential Property Owners Act, Texas Property Code, as it may be amended.

(c) Applicability. The notice and hearing procedures set forth in this **Section 11.6**

shall not apply to any claim (i) upon which the Board deems it necessary to obtain emergency injunctive relief, (ii) pertaining to the collection of Assessments, or (iii) where the Association decides to exercise its right of self-help to cure the violation after written notice to the Owner and an opportunity to cure.

## ARTICLE XII.
## AUTHORITY AND CONTROL BY DECLARANT

Section 12.1 Declarant Rights. (a) Notwithstanding anything herein to the contrary, so long as LDC Lavon or Lavon LakePointe, owns at least one (1) Lot, LDC Lavon or Lavon LakePointe shall have the sole right, but not the obligation, in its sole discretion, at any time, effective as of the date hereof, to control, perform and/or conduct the following:

(1) amend this Declaration, the Design Guidelines, the Rules, and/or the Community-Wide Standard, in whole or in part **for any reason** as the Declarant in its discretion, deems necessary without the consent or joinder of the Board or Members;

(2) enforce the provisions of this Declaration; and

(3) review, determine and enforce the architectural control of the Lots; and

(4) assigns its rights and obligations under this Declaration to any entity at any time, in whole or in part.

(b) Declarant's rights set forth above are absolute in its sole discretion and do not require the approval, consent, or joinder of (i) any Owner, (ii) the Association, (iii) the Board of Directors, or (iv) any committees or other parties which may be established with respect hereto. **Further, and without regard to whether or not the Declarant has been released from obligations and duties to the Association, during the Development Period or so long as the Declarant holds record title to at least one (1) Lot and holds same for sale in the ordinary course of business, neither the Association nor its Board, nor any Member of the Association shall take any action that will impair or adversely affect the rights of the Declarant, should same exist, or cause the Declarant to suffer any financial, legal or other detriment, including but not limited to, any direct or indirect interference with the sale of Lots**. In the event there is a breach of this **Section 12.1**, it is acknowledged that any monetary award which may be available would be an insufficient remedy and therefore, in addition to all other remedies, the Declarant shall be entitled to injunctive relief restraining the Association, its Board or any member of the Association from further breach of this **Section 12.1**. In the event any other provision in this Declaration is in contradiction to this **Article XII**, in whole or in part, this **Article XII** shall prevail.

(c) From time to time, the Declarant reserves the right to replat its Property or to amend or modify the Plat in order to assure harmonious and orderly development of the Property as herein provided. The Declarant may exercise such rights at any time during the Development Period and no joinder of any other Owner shall be required to give effect to such rights, each Owner consenting to the Declarant's execution of any replat on such Owner's behalf. However, any such

replatting or amendment of the Plat shall be with the purpose of efficiently and economically developing the Property for the purposes herein provided or for compliance with any Applicable Law. The Declarant's rights under this **Section 12.1** shall expire upon expiration of the Development Period.

Section 12.2 Easement to Inspect and Right to Correct. Declarant reserves for itself and others, and Declarant may designate the right, but not the obligation, to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the Property, including Lots, and a nonexclusive easement of access throughout the Property to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Lot shall be only after reasonable notice to the Owner and no entry into a residence or other structure on a Lot shall be permitted without the Owner's consent, which consent shall not unreasonably be withheld, conditioned, or delayed. The failure or refusal to permit reasonable access to the Lot for the purposes contemplated under this **Section 12.2** shall excuse Declarant or its designee from responsibility for repairs or damages relating to defective workmanship or materials.

Section 12.3 Right to Develop. Declarant and its employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Property for the purpose of making, constructing, and installing such improvements to and on the Property as Declarant deems appropriate in its discretion.

Section 12.4 Construction Activities. (a) All Owners, occupants, and users of Lots are hereby placed on notice that Declarant, and/or its agents, contractors, subcontractors, licensees, and other designees, shall conduct development and construction activities within the Property and that such activities shall be conducted in phases and may cause disturbance and disruption which impact the use and enjoyment of a Lot. Declarant and builders will attempt to limit construction to reasonable hours and Declarant reserves the right to change or restrict hours or days of construction at any time. During the Declarant Control Period or so long as any Builder owns a Lot for sale in the ordinary course of business the Board shall not interfere with a Builder's ability to construct, market, and sell of a home. Builders shall have the right to maintain reasonable construction hours and hold open house events as long as the event is restricted to a residence or a Lot owned by the Builder. To use any portion of a common area or common area parking the Builder must obtain written permission from the Declarant and thereafter, the Board.

**(b) By acceptance of a deed or other conveyance or mortgage, leasehold, license, or other interest, and by using any portion of a Lot or the Property generally, the Owners and all occupants and users of Lots acknowledge, stipulate, and agree: (a) that such activities shall not be deemed nuisances, or noxious or offensive activities, under any applicable covenants or at law generally; (b) not to enter upon, or allow their children or other persons under their control or direction to enter upon, or allow their children or other persons under their control or direction to enter upon (regardless of whether such entry is a trespass or otherwise) any property within or in proximity to the Lot where such activities are being conducted (even if not being actively conducted at the time of entry, such as at night or otherwise during non-working hours); (c) that Declarant and all of its agents, contractors, subcontractors, licensees, and other designees, shall not be liable but, rather, shall be held harmless for any and all losses, damages (compensatory, consequential, punitive, or otherwise), injuries, or deaths arising from or relating to the aforesaid activities;**

**(d) that any purchase or use of any portion of a Lot has been and will be made with full knowledge of the foregoing; and (e) this acknowledgment and agreement is a material inducement to Declarant to sell, convey, lease, and/or allow the use of Lots within the Property.**

Section 12.5 Changes in Master Plan. (a) Each Owner acknowledges that the Subdivision is a planned community, the development of which is likely to extend over many years, and agrees that the Association shall not engage in, or use Association funds to support, any protest, challenge, or other form of objection to (a) changes in uses or density of property within the Property, or (b) changes in the master plan of Subdivision, including, without limitation, the enlargement of the master plan and the acquisition or revision of regulatory approvals to reflect the annexation of real property, without Declarant's prior written consent, which consent may be granted or withheld in Declarant's discretion.

(b) Each Owner acknowledges and agrees that the present plans and themes for the Property's development may change and that it has not relied on any representation, warranty, or assurance by any person: (a) that any Lots, or other property or facilities will or will not be added, modified, or eliminated within the Property; or (b) as to the financial or other impact of such action on any Owner. Each Owner acknowledges and agrees that it is not entitled to rely upon and has not received or relied upon any representations, warranties, or guarantees whatsoever as to (i) the design, construction, completion, development, use, benefits, or value of the Property, or (ii) the number, types, sizes, prices, or designs of any residential structures or improvements built or to be built in any part of the Property.

Section 12.6 Dispute Resolution Involving Declarant.

(a) Right to Correct. Prior to the Association or any Member commencing any proceeding to which Declarant is a party, including but not limited to an alleged defect of any improvement, Declarant shall have the right to be heard by the Members, or the particular Member, and to access, inspect, correct the condition of, or redesign any portion of any improvement as to which a defect is alleged or otherwise correct the alleged dispute.

(b) Alternative Method for Resolving Disputes. Declarant, the Association, any Builder, the officers, directors, committee members, employees and agents of the Declarant, Association and any Builder, and any person not otherwise subject to this Declaration who agrees to submit to this **Section 12.6** (each such entity being referred to as a "**Bound Party**") agree to encourage the amicable resolution of disputes, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit those Claims as described in **Article XVI** hereof to the mandatory procedures set forth in **Article XVI**.

## ARTICLE XIII.
## OBLIGATIONS OF BOARD OF DIRECTORS

Section 13.1 Obligations of Board of Directors. Notwithstanding anything herein to the contrary, and so long as Declarant is acting on behalf of the Board of Directors as further described in Section 13.2 below, the sole responsibility and obligation of the Board of Directors shall be to maintain the books and records of the Association and maintain the Association in good standing

with the Secretary of State of the State of Texas and in good standing with the Office of the Comptroller of Public Accounts of the State of Texas.

Section 13.2 Liability for Association Operations. The Association shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless Declarant (including its successors and assigns) from and against any and all losses, claims, demands, damages, costs, and expenses of whatever kind or nature (including, without limitation, reasonable attorneys' fees and costs at all tribunal levels and whether or not suit is instituted, including those incurred in establishing the right to be indemnified, defended, and held harmless pursuant hereto), which relate to or arise out of Association management and operations, including, without limitation, improvement, maintenance, and operation of amenities and other portions of the Common Properties and the collection of Assessments.

Section 13.3 Security. (a) **OWNERS AND OCCUPANTS OF LOTS, AND THEIR RESPECTIVE GUESTS AND INVITEES, ARE RESPONSIBLE FOR THEIR OWN PERSONAL SAFETY AND FOR THEIR PROPERTY WITHIN THE PROPERTY. THE ASSOCIATION MAY BUT IS NOT OBLIGATED TO MAINTAIN OR SUPPORT CERTAIN ACTIVITIES WITHIN THE PROPERTY WHICH PROMOTE OR ENHANCE SAFETY OR SECURITY WITHIN THE PROPERTY. HOWEVER, THE ASSOCIATION AND DECLARANT SHALL NOT IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SAFETY OR SECURITY WITHIN THE PROPERTY, NOR SHALL THEY BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN.**

(b) **THE ASSOCIATION MAY, BUT IS UNDER NO OBLIGATION TO, INSTALL WI-FI (WIRELESS INTERNET), CAMERA(S) AND/OR SECURITY SYSTEMS IN CERTAIN COMMON AREAS OR AMENITIES SUCH AS, BUT NOT LIMITED TO, POOLS AND ENTRY OR EXITS TO THE COMMUNITY. IN THE EVENT AN INCIDENT IS CAUGHT ON CAMERA, THE FOOTAGE MAY BE SURRENDERED TO LAW ENFORCEMENT FOR THE PURPOSE OF INVESTIGATING A POSSIBLE CRIME OR ACT OF VIOLENCE, VANDALISM, DESTRUCTION OF PROPERTY, OR OTHER ACTIONS WHICH MAY WARRANT INVESTIGATION AND/OR PROSECUTION BY LAW ENFORCEMENT OR THE ASSOCIATION.**

(c) **NO REPRESENTATION OR WARRANTY IS MADE THAT ANY SYSTEMS OR MEASURES, INCLUDING FIRE PROTECTION, BURGLAR ALARM, OR OTHER SECURITY MONITORING SYSTEMS, OR ANY MECHANISM OR SYSTEM FOR LIMITING ACCESS TO THE PROPERTY, CANNOT BE COMPROMISED OR CIRCUMVENTED, NOR THAT ANY SUCH SYSTEMS OR MEASURES UNDERTAKEN WILL IN ALL CASES PREVENT LOSS OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER ACKNOWLEDGES, UNDERSTANDS, AND SHALL BE RESPONSIBLE FOR INFORMING ITS TENANTS AND OCCUPANTS OF ITS LOT AND ALL OF ITS INVITEES AND GUESTS THAT THE ASSOCIATION, THE BOARD, THE COMMITTEES OF THE ASSOCIATION AND BOARD, DECLARANT AND THE**

**OFFICERS AND AGENTS OF THE ASSOCIATION, BOARD AND DECLARANT ARE NOT INSURERS OR GUARANTORS OF SECURITY OR SAFETY AND THAT EACH PERSON WITHIN THE PROPERTY ASSUMES ALL RISKS OF PERSONAL INJURY AND LOSS OR DAMAGE TO PROPERTY, INCLUDING LOTS, HOUSES AND THE CONTENTS OF LOTS AND HOUSES, RESULTING FROM ACTS OF THIRD PARTIES SUCH AS, BUT NOT LIMITED TO, VENDING MACHINES OR THE VENDORS WHO SUPPLY AND MAINTAINT THEM.**

## ARTICLE XIV.
## EXPANSION OF THE PROPERTY

Section 14.1 Expansion of the Property. Declarant, in its sole discretion and without the approval of any other party, may from time to time subject this Declaration to additional real property by recording in the Real Property Records of the County a Supplemental Declaration describing the additional real property to be subjected to this Declaration. Any such Supplemental Declaration which is executed by Declarant and the owner of such additional property, if other than Declarant, and recorded in the Real Property Records of the County shall not require the consent or approval of any other Owner or other person in order to be fully enforceable and effective to cause such additional real property to be incorporated herein. Nothing in this Declaration shall be construed to require Declarant to subject additional real property to this Declaration.

Section 14.2 Additional Covenants and Easements. Declarant, in its sole discretion and without the approval of any other party, may from time to time subject any portion of the Property, whether now or hereafter a part of this Declaration, to additional covenants and easements, including, without limitation, covenants obligating the Association to maintain and insure such Property and authorizing the Association to recover its costs through the Assessments, as described in **Article X** hereof. Such additional covenants and easements may be set forth either in a Supplemental Declaration subjecting such additional property to this Declaration or in a separate Supplemental Declaration referencing Property previously subjected to this Declaration. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the Property, whether now or hereafter a part of this Declaration, in order to reflect the different character and intended use of such Property. Any such Supplemental Declaration which is executed by Declarant and recorded in the Real Property Records of the County shall not require the consent or approval of any other Owner or other person in order to be fully enforceable and effective to cause such additional covenants and easements to be incorporated herein.

Section 14.3 Effect of Recording Supplemental Declaration. A Supplemental Declaration shall be effective upon the recording of same in the Real Property Records of the County unless otherwise specified in such Supplemental Declaration. On the effective date of the Supplemental Declaration, any additional property subjected to this Declaration shall be assigned voting rights in the Association and Assessment liability in accordance with the provisions of this Declaration.

## ARTICLE XV.
## GENERAL PROVISIONS

Section 15.1 Mortgages. It is expressly provided that the breach of any of the conditions contained herein shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to the same premises or any part thereof encumbered by such mortgage or deed of trust, but said conditions shall be binding thereto as to Lots acquired by foreclosure, trustee's sale or otherwise, as to any breach occurring after such acquisition of title.

Section 15.2 Term. This Declaration shall be enforceable by Declarant, the Association, any aggrieved Owner, and their respective legal representatives, heirs, successors, and assigns until December 31, 2050, after which time this Declaration shall extend automatically for successive 10-year periods unless at least sixty-seven percent (67%) of the then Owners have signed, within a six (6) month period preceding the end of the initial term or any extension, an instrument which terminates this Declaration and such instrument is recorded in the Real Property Records of the County prior to the end of the term.

Section 15.3 Severability. If any provision herein contained shall be invalid, which invalidity shall not be presumed until the same is determined by the final (*i.e.*, non-appealable) judgment or order of a court of competent jurisdiction, such invalidity shall in no way affect any other provision hereof, each of which shall remain in full force and effect.

Section 15.4 Notice of Inclusion in PID, and Notice of Obligation to Pay Public Improvements District Assessment. **THE PROPERTY IS LOCATED IN A PUBLIC IMPROVEMENT DISTRICT CREATED BY THE CITY OF LAVON, TEXAS, KNOWN AS THE "LAKEPOINTE PUBLIC IMPROVEMENT DISTRICT". THE PURPOSE OF THIS DISTRICT IS TO PROVIDE ROAD, SEWER, AND/OR DRAINAGE FACILITIES AND SERVICES WITHIN THE DISTRICT THROUGH THE ISSUANCE OF BONDS PAYABLE IN WHOLE OR IN PART FROM PID ASSESSMENTS AND PROPERTY TAXES. THE COST OF THESE FACILITIES AND SERVICES IS NOT INCLUDED IN THE PURCHASE PRICE OF YOUR PROPERTY, AND THESE FACILITIES ARE OWNED OR WILL BE OWNED BY THE DISTRICT. THE DISTRICT HAS TAXING AND ASSESSMENT AUTHORITY SEPARATE FROM ANY OTHER TAXING AUTHORITY AND MAY, SUBJECT TO VOTER APPROVAL, ISSUE AN UNLIMITED AMOUNT OF BONDS AND LEVY AN UNLIMITED RATE OF TAX AND/OR ASSESSMENT IN PAYMENT OF SUCH BONDS. THE DISTRICT ALSO HAS THE AUTHORITY TO ADOPT AND IMPOSE A STANDBY FEE ON PROPERTY IN THE DISTRICT THAT HAS SANITARY SEWER, OR DRAINAGE FACILITIES AND SERVICES AVAILABLE BUT NOT CONNECTED TO, AND WHICH DOES NOT HAVE, A HOUSE, BUILDING, OR OTHER IMPROVEMENT LOCATED THEREON AND DOES NOT SUBSTANTIALLY UTILIZE THE UTILITY CAPACITY AVAILABLE TO THE PROPERTY. THE CITY OF LAVON, TEXAS, THROUGH THE LAKEPOINT PUBLIC IMPROVEMENT DISTRICT, HAS LEVIED OR WILL LEVY AN ASSESSMENT ("PID ASSESSMENT") FOR THE PURPOSE OF PROVIDING THESE PID IMPROVEMENTS TO BENEFIT PROPERTY IN THE PUBLIC IMPROVEMENT DISTRICT.**

**THE OWNER OF A LOT OR OTHER PORTION OF THE PROPERTY IS OBLIGATED TO PAY THE PID ASSESSMENTS TO THE CITY OF LAVON, TEXAS. THE PID ASSESSMENTS MAY BE DUE ANNUALLY OR IN PERIODIC INSTALLMENTS. MORE INFORMATION CONCERNING THE AMOUNT OF THE PID ASSESSMENTS AND THE DUE DATES OF THE PID ASSESSMENTS MAY BE OBTAINED FROM THE CITY OF LAVON, TEXAS. THE AMOUNT OF THE PID ASSESSMENTS IS SUBJECT TO CHANGE. AN UNPAID PID ASSESSMENT IS THE PERSONAL OBLIGATION OF THE PERSON THAT OWNED THE PROPERTY AT THE TIME OF IMPOSITION AND IS SECURED BY A LIEN ON THE PROPERTY, AND AN OWNER'S FAILURE TO PAY THE PID ASSESSMENTS COULD RESULT IN THE FORECLOSURE OF AN OWNER'S LOT OR PORTION OF THE PROPERTY.**

Section 15.5 Binding Effect. This Declaration is for the mutual benefit of, and shall be binding upon, each and every person acquiring any part of the Property, it being understood that the covenants, conditions, restrictions, easements, and other provisions contained in this Declaration are not for the benefit of the owner of any land except that land which is a part of the Property. This Declaration, when executed, shall be filed of record in the Real Property Records of the County, so that each and every Owner or purchaser of any portion of the Property is on notice of the covenants, conditions, restrictions, easements, and other provisions herein contained.

Section 15.6 Notices. (a) Any notices or correspondence to an Owner shall be addressed to the street address of the Lot or to such other address as is specified by any such Owner in writing to the Association. The burden shall be on the Owner to prove that such written notification was duly given and delivered to the Association as provided below. Any notices or correspondence to the Association shall be addressed to the registered office of the Association as shown by the records of the Secretary of State for the State of Texas or to such other address as is specified by the Association in writing to the Owners. The Association shall adopt an E-mail Registration Policy which shall be effective for all Owners and/or Members.

(b) Except as this Declaration or the Bylaws otherwise provide, all notices, demands, bills, statements, or other communications under this Declaration or the Bylaws shall be in writing and shall be deemed to have been duly given (i) if delivered personally or by private carrier, (ii) if sent by United States mail, or (iii) if the intended recipient has given its prior written authorization to use such method of delivery, by electronic mail with written confirmation of transmission.

(c) Notices sent in accordance with this Declaration shall be deemed to have been duly given and effective:

(i) if sent by United States mail, when deposited with the U.S. Postal Service, correctly addressed, with first class postage prepaid;

(ii) if delivered personally or by private carrier, when actually delivered to the address of the intended recipient, as evidenced by the signature of the person at such address who accepts such delivery or an affidavit signed by the person delivering the notice; or

(iii) if sent by electronic mail, upon transmission, as evidenced by a printed

confirmation.

Section 15.7 Transfer Under Deed of Trust. Upon any transfer of Declarant's interest in and to the Property, or any part thereof, under the terms of any deed of trust lien upon the Property, whether voluntary or involuntary, by foreclosure, deed in lieu of foreclosure or otherwise, all rights, title and interests of Declarant under this Declaration, shall be transferred to and devolve upon the party to whom the Property, or any part thereof, is thereby conveyed.

Section 15.8 Notice of Transfer. If at any time a Lot is sold, the new Owner shall have the sole obligation to promptly notify the Association of the name, mailing address, phone number, email address, and other contact information of the new Owner and shall be responsible for any cost, charge or expense added to the account of such Owner which may have otherwise been avoided if the above information was promptly delivered to the Association.

Section 15.9 No Liability for Trespass. Whenever the Association, the Board of Directors or Declarant exercises any right hereunder and in connection therewith enters upon any Lot, such parties shall not be liable for trespass upon such Lot.

Section 15.10 Lien Priority. Notwithstanding any other provision of the Declaration, the lien to secure the payment of Assessments and any other lien which the Association may have on any Lot pursuant to this Declaration for (a) Assessments or other fees and/or charges becoming payable on or after the date of recordation of the first mortgage or deed of trust on any Lot, or (b) any fees, late charges, fines or interest that may be levied by the Association in connection with unpaid Assessments, shall be subordinate to the lien or equivalent security interest of any legitimate third-party first lien mortgage or deed of trust on any Lot, if any. 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 extinguish the liens securing Assessments, fees and/or charges which became due and payable prior to such foreclosure date, but no such foreclosure shall free any Lot from the liens securing Assessments, fees and/or charges thereafter becoming due and payable, nor shall the liability of any Owner personally obligated to pay the Assessments, fees and/or charges which become due prior to such foreclosure be extinguished by any foreclosure, nor shall the lien for future Assessments, fees and/or charges be affected in any manner. Any such Assessments, fees and/or charges which are extinguished pursuant to the foregoing provision shall be reallocated and assessed to all Lots as a common expense.

Section 15.11 Use of Recreational Facilities and Other Common Properties. (a) The Property made subject to this Declaration will contain common recreational facilities available for the use and enjoyment of (i) Owners of all or any part of the Property, including Lots and homes, within the Subdivision, (ii) the Owners' families, tenants and other occupants of their Property, and (iii) the guests of any such persons. **BY ACCEPTANCE OF A DEED TO ANY PORTION OF THE PROPERTY MADE SUBJECT TO THIS DECLARATION, EACH OWNER ACKNOWLEDGES THAT THE USE AND ENJOYMENT OF ANY RECREATIONAL FACILITY OR ANY OTHER PORTION OF THE COMMON PROPERTIES INVOLVES RISK OF PERSONAL INJURY OR DAMAGE TO PROPERTY.**

(b) Each Owner acknowledges, understands, and covenants to inform his or her family members, tenants and other occupants of Owner's Property that Declarant, the Association, the Board and any committees, and Builders constructing homes and other improvements within the Property are not insurers of personal safety. **EACH PERSON USING SUCH RECREATIONAL FACILITIES OR ANY OTHER PORTION OF THE COMMON PROPERTIES ASSUMES ALL RISKS OF PERSONAL INJURY, DEATH, AND LOSS OR DAMAGE TO PROPERTY, RESULTING FROM THE USE AND ENJOYMENT OF ANY RECREATIONAL FACILITY OR OTHER PORTION OF THE COMMON PROPERTIES**. Each Owner agrees that Declarant, the Association, the Board and committees, and Builders within the community shall not be liable to any person claiming any loss or damage, including, without limitation, indirect, special or consequential loss or damage arising from personal injury or death, destruction of property, trespass, loss of enjoyment, or any other wrong or entitlement to remedy based upon, due to, arising from, or otherwise relating to the use of any recreational facility or other portions of the Common Properties, including, without limitation, any claim arising in whole or in part from the negligence of Declarant, the Association, or any Builder within the community. **THE FOREGOING RELEASE IS INTENDED TO RELEASE THE SPECIFIED PARTIES FROM LIABILITY FOR THEIR OWN NEGLIGENCE.**

(c) **EACH OWNER ACKNOWLEDGES AND AGREES THAT THE ABOVE RELEASE FROM LIABILITY IS CONSIDERATION FOR, AND A CONDITION TO, THE USE AND ENJOYMENT OF THE RECREATIONAL FACILITIES AND OTHER COMMON PROPERTIES WITHIN THE SUBDIVISION AND THAT THIS ACKNOWLEDGMENT AND AGREEMENT IS A MATERIAL INDUCEMENT TO DECLARANT AND BUILDERS TO SELL, CONVEY, LEASE, AND/OR ALLOW THE USE OF LOTS WITHIN THE SUBDIVISION. ANY VIOLATION OF THIS RELEASE AGREEMENT BY AN OWNER, OR ANY OF OWNER'S FAMILY MEMBERS, TENANTS AND OTHER OCCUPANTS OF OWNER'S PROPERTY, OR THEIR RESPECTIVE GUESTS, SHALL BE GROUNDS FOR THE SUSPENSION OR TERMINATION OF ALL OF SUCH PERSONS' USE PRIVILEGES IN SUCH FACILITIES.**

Section 15.12 Construction of Declaration and All Association Documents. The provisions of this Declaration and all other documents of the Association (the "**Association Documents**") shall be liberally construed to give effect to its intended purpose. All doubts regarding the meaning, significance or effect of a provision in this Declaration or other documents of the Association, shall be resolved in favor of the operation of the Association and its enforcement of the Declaration.

Section 15.13 Reserved.

Section 15.14 Liability Limitations; Indemnification. No Declarant or managing agent, or their respective directors, officers, agents, members, employees, or representatives, or any member of the Board or the ACC or other officer, agent or representative of the Association or committee (collectively, the "**Indemnified Parties**"), shall be personally liable for the debts, obligations or liabilities of the Association. The Indemnified Parties shall not be liable for any mistake of judgment, whether negligent or otherwise, except for their own individual willful misfeasance or malfeasance, misconduct, bad faith, intentional wrongful acts or as otherwise

expressly provided in the Association Documents. The Indemnified Parties shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association, and **THE ASSOCIATION, AS A COMMON EXPENSE OF THE ASSOCIATION, SHALL INDEMNIFY AND HOLD HARMLESS THE INDEMNIFIED PARTIES FROM ANY AND ALL EXPENSES, LOSSES AND LIABILITIES TO OTHERS ON ACCOUNT OF ANY SUCH CONTRACT OR COMMITMENT (TO THE EXTENT NOT COVERED BY INSURANCE PROCEEDS). IN ADDITION, EACH INDEMNIFIED PARTY SHALL BE INDEMNIFIED AND HELD HARMLESS BY THE ASSOCIATION, AS A COMMON EXPENSE OF THE ASSOCIATION, FROM ANY EXPENSE, LOSS OR LIABILITY TO OTHERS (TO THE EXTENT NOT COVERED BY INSURANCE PROCEEDS) BY REASONS OF HAVING SERVED AS SUCH DIRECTOR, OFFICER, AGENT, MEMBER, EMPLOYEE AND/OR REPRESENTATIVE AND IN SUCH CAPACITY, AND AGAINST ALL EXPENSES, LOSSES AND LIABILITIES, INCLUDING, BUT NOT LIMITED TO, COURT COSTS AND REASONABLE ATTORNEYS' FEES, INCURRED BY OR IMPOSED UPON SUCH INDEMNIFIED PARTY IN CONNECTION WITH ANY PROCEEDING TO WHICH SUCH PERSON MAY BE A PARTY OR HAVE BECOME INVOLVED BY REASON OF BEING SUCH DIRECTOR, OFFICER, AGENT, MEMBER, EMPLOYEE AND/OR REPRESENTATIVE AT THE TIME ANY SUCH EXPENSES, LOSSES OR LIABILITIES ARE INCURRED SUBJECT TO ANY PROVISIONS REGARDING INDEMNITY CONTAINED IN THE ASSOCIATION DOCUMENTS, EXCEPT IN CASES WHEREIN THE EXPENSES, LOSSES AND LIABILITIES ARISE FROM A PROCEEDING IN WHICH SUCH INDEMNIFIED PARTY IS ADJUDICATED GUILTY OF WILLFUL MISFEASANCE OR MALFEASANCE, MISCONDUCT OR BAD FAITH IN THE PERFORMANCE OF SUCH PERSON'S DUTIES OR INTENTIONAL WRONGFUL ACTS OR ANY ACT EXPRESSLY SPECIFIED IN THE ASSOCIATION DOCUMENTS AS AN ACT FOR WHICH ANY LIMITATION OF LIABILITY SET FORTH IN THE ASSOCIATION DOCUMENTS IS NOT APPLICABLE; PROVIDED, HOWEVER, THIS INDEMNITY DOES COVER LIABILITIES RESULTING FROM SUCH INDEMNIFIED PARTY'S NEGLIGENCE. AN INDEMNIFIED PARTY IS NOT LIABLE FOR A MISTAKE OF JUDGMENT, NEGLIGENT OR OTHERWISE. AN INDEMNIFIED PARTY IS LIABLE FOR HIS OR HER WILLFUL MISFEASANCE, MALFEASANCE, MISCONDUCT, OR BAD FAITH. THIS RIGHT TO INDEMNIFICATION DOES NOT EXCLUDE ANY OTHER RIGHTS TO WHICH PRESENT OR FORMER INDEMNIFIED PARTIES MAY BE ENTITLED. ANY RIGHT TO INDEMNIFICATION PROVIDED HEREIN SHALL NOT BE EXCLUSIVE OF ANY OTHER RIGHTS TO WHICH A DIRECTOR, OFFICER, AGENT, MEMBER, EMPLOYEE AND/OR REPRESENTATIVE, OR FORMER DIRECTOR, OFFICER, AGENT, MEMBER, EMPLOYEE AND/OR REPRESENTATIVE, MAY BE ENTITLED. THE ASSOCIATION MAY MAINTAIN AS A COMMON EXPENSE GENERAL LIABILITY AND DIRECTORS' AND OFFICERS' LIABILITY INSURANCE TO FUND THIS OBLIGATION. ADDITIONALLY, THE ASSOCIATION MAY INDEMNIFY A PERSON WHO IS OR WAS AN EMPLOYEE, TRUSTEE, AGENT, OR ATTORNEY OF THE ASSOCIATION, AGAINST ANY LIABILITY ASSERTED AGAINST HIM AND INCURRED BY HIM IN THAT CAPACITY AND ARISING OUT OF THAT CAPACITY.** Any insurance policies obtained by the Association shall name the Declarant and managing agent as "additional Insured" on such policies.

**ADDITIONALLY, THE ASSOCIATION MAY INDEMNIFY A PERSON WHO IS OR WAS AN EMPLOYEE, TRUSTEE, AGENT, OR ATTORNEY OF THE ASSOCIATION, AGAINST ANY LIABILITY ASSERTED AGAINST HIM AND INCURRED BY HIM IN THAT CAPACITY AND ARISING OUT OF THAT CAPACITY.**

## ARTICLE XVI.
## DISPUTE RESOLUTION

Section 16.1 Introduction and Definitions. The Association, the Owners, Declarant, all persons subject to this Declaration, and any person not otherwise subject to this Declaration who agrees to submit to this **Article XVI** (collectively, the "**Parties**") agree to encourage the amicable resolution of disputes involving the Property, this Declaration and all matters arising under or in connection with this Declaration or the Association, and to avoid the emotional and financial costs of litigation and arbitration if at all possible. Accordingly, each Party hereby covenants and agrees that this **Article XVI** applies to all Claims as hereafter defined. The provisions of this **Article XVI** shall be specifically enforceable under applicable law in any court having jurisdiction thereof. Notwithstanding anything contained in the documents, this **Article XVI** may only be amended with the prior written approval of the Declarant, and Owners holding 100% of votes in the Association. As used in this **Article XVI** only, the following words, when capitalized, have the following specified meanings:

"**Claim**" means:

a. Claims relating to the rights and/or duties of Declarant, the Association, any agent or representative engaged by or acting on behalf of the Declarant or the Association, or the Reviewer, under the Governing Documents.

b. Claims relating to the acts or omissions of the Declarant, the Association, the Board, any Board or committee member, or any officer, director, manager, agent, member, employee or representative of the Association, Declarant, Board or Reviewer during or after Declarant's control and administration of the Association.

c. Claims relating to the design, construction, modification or addition to, of or on the Property, including Common Properties or improvements thereon, residences, buildings, or other improvements located on the Lots.

"**Claimant**" means any Party having a Claim against any other Party.

"**Respondent**" means any Party against which a Claim has been asserted by a Claimant.

Section 16.2 Mandatory Procedures. Claimant may not initiate any proceeding before any governmental, administrative or judicial tribunal, court or body seeking redress or resolution of its Claim until Claimant has complied with the procedures of this **Article XVI**. As provided in **Section 16.9** below, a Claim not otherwise resolved will be resolved by binding arbitration.

Section 16.3 Claim Affecting Common Areas. The Association does not have the

power or right to institute, defend, intervene in, settle, or compromise litigation or administrative proceedings (1) in the name of or on behalf of any Owner (whether one or more), or (2) pertaining to a Claim, as defined in **Section 16.1.1** below, relating to the design, construction, modification, or addition to or of any improvements on a Lot (whether one or more), including residences or other improvements thereon. In the event the Association or an Owner asserts a Claim related to the Common Properties, as a precondition to providing the Notice defined in **Section 16.5**, initiating the mandatory dispute resolution procedures set forth in this **Article XVI**, or taking any other action to prosecute a Claim related to the Common Properties, the Association or Owner, as applicable, must:

16.3.1 Independent Report on the Condition of the Common Properties. Obtain an independent third-party report (the "**Common Area Report**") from a licensed professional engineer which (1) identifies the Common Properties subject to the Claim including the present physical condition of the Common Properties, (2) describes any modification, maintenance, or repairs to the Common Properties performed by the Owner(s) and/or the Association, and (3) provides specific and detailed recommendations regarding remediation and/or repair of the Common Properties subject to the Claim. For the purposes of this **Section 16.3.1**, an independent third-party report is a report obtained directly by the Association or an Owner and paid for by the Association or Owner, as applicable, and not prepared by a person employed by or otherwise affiliated with the attorney or law firm that represents or will represent the Association or Owner in the Claim. As a precondition to providing the Notice described in **Section 16.5**, the Association or Owner must provide at least ten (10) days prior written notice of the inspection, calculated from the date of receipt of such notice, to each party subject to a Claim which notice shall identify the independent third-party engaged to prepare the Common Area Report, the specific Common Properties to be inspected, and the date and time the inspection will occur. Each party subject to a Claim may attend the inspection, personally or through an agent. Upon completion, the Common Area Report shall be provided to each party subject to a Claim. In addition, before providing the Notice described in **Section 16.5**, the Association or the Owner, as applicable, shall have permitted each party subject to a Claim the right, for a period of ninety (90) days, to inspect and correct any condition identified in the Common Area Report.

16.3.2 Claim by the Association - Owner Meeting and Approval. If a Claim is initiated and prosecuted by the Association against Declarant, the Association must first obtain approval from Members holding sixty-seven percent (67%) of the votes in the Association to provide the Notice described in **Section 16.5**, initiate the mandatory dispute resolution procedures set forth in this **Article XVI**, and/or take any other action to prosecute a Claim, which approval from Members must be obtained at a special meeting of Members called in accordance with the Bylaws. The notice of meeting required hereunder will be provided pursuant to the Bylaws, but the notice must also include (1) the nature of the Claim, the relief sought, the anticipated duration of prosecuting the Claim, and the likelihood of success, (2) a copy of the Common Area Report, (3) a copy of any proposed engagement letter, with the terms of such engagement between the Association and an attorney to be engaged by the Association to assert or provide assistance with the claim (the "**Engagement Letter**"), (4) a description of the attorney fees, consultant fees, expert witness fees, and court costs, whether incurred by the Association directly or for

which it may be liable if it is not the prevailing party or that the Association will be required, pursuant to the Engagement Letter or otherwise, to pay if the Association elects to not proceed with the Claim, (5) a summary of the steps previously taken, and proposed to be taken, to resolve the Claim, (6) an estimate of the impact on the value of each residence if the Claim is prosecuted and an estimate of the impact on the value of each residence after resolution of the Claim, (7) an estimate of the impact on the marketability of each residence if the Claim is prosecuted and during prosecution of the Claim, and an estimate of the impact on the value of each residence during and after resolution of the Claim, (8) the manner in which the Association proposes to fund the cost of prosecuting the Claim, and (9) the impact on the finances of the Association, including the impact on present and projected reserves, in the event the Association is not the prevailing party. The notice required by this paragraph must be prepared and signed by a person other than, and not employed by or otherwise affiliated with, the attorney or law firm that represents or will represent the Association or Owner, as applicable, in the Claim. In the event Members approve providing the Notice described in **Section 16.5**, or taking any other action to prosecute a Claim, the Members holding a Majority of the votes in the Association, at a special meeting called in accordance with the Bylaws, may elect to discontinue prosecution or pursuit of the Claim.

Section 16.4 Claim by Owners – Improvements on Lots. Notwithstanding anything contained herein to the contrary, in the event a warranty is provided to an Owner by the Declarant relating to the design or construction of any improvements located on a Lot, then this **Article XVI** will only apply to the extent that this **Article XVI** is more restrictive than such Owner's warranty, as determined in the sole discretion of the Declarant providing such warranty (if any). If a warranty has not been provided to an Owner by the Declarant relating to the design or construction of any improvements located on a Lot, then this **Article XVI** will apply. If an Owner brings a Claim, as defined in **Section 16.1.1**, relating to the design or construction of any improvements located on a Lot (whether one or more), as a precondition to providing the Notice defined in **Section 16.5**, initiating the mandatory dispute resolution procedures set forth in this **Article XVI**, or taking any other action to prosecute a Claim, the Owner must obtain an independent third-party report (the "Owner Improvement Report") from a licensed professional engineer which (1) identifies the improvements subject to the Claim including the present physical condition of the improvements, (2) describes any modification, maintenance, or repairs to the improvements performed by the Owner(s) and/or the Association, and (3) provides specific and detailed recommendations regarding remediation and/or repair of the improvements subject to the Claim. For the purposes of this **Section 16.4**, an Owner Improvement Report is a report obtained directly by the Owner and paid for by the Owner, and not prepared by a person employed by or otherwise affiliated with the attorney or law firm that represents or will represent the Owner in the Claim. As a precondition to providing the Notice described in **Section 16.5**, the Owner must provide at least ten (10) days prior written notice of the inspection, calculated from the date of receipt of such notice, to each party subject to a Claim which notice shall identify the independent third-party engaged to prepare the Owner Improvement Report, the specific improvements to be inspected, and the date and time the inspection will occur. Each party subject to a Claim may attend the inspection, personally or through an agent. Upon completion, the Owner Improvement Report shall be provided to each party subject to a Claim. In addition, before providing the Notice described in **Section 16.5**, the Owner shall have permitted each party subject to a Claim the right, for a period of ninety (90) days, to inspect and correct any condition identified in the Owner

Improvement Report.

Section 16.5 Notice. (a) Claimant must notify Respondent in writing of the Claim (the "**Notice**"), stating plainly and concisely (1) the nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim, (2) the basis of the Claim (i.e., the provision of the documents or other authority out of which the Claim arises), (3) what Claimant wants Respondent to do or not do to resolve the Claim, and (4) that the Notice is given pursuant to this **Section 16.5**. For Claims governed by Chapter 27 of the Texas Property Code, the time period for negotiation in **Section 16.6** below, is equivalent to the sixty (60) day period set forth in Section 27.004 of the Texas Property Code. If a Claim is subject to Chapter 27 of the Texas Property Code, the Claimant and Respondent are advised, in addition to compliance with **Section 16.6**, to comply with the terms and provisions of Section 27.004 during such sixty (60) day period. **Section 16.6** does not modify or extend the time period set forth in Section 27.004 of the Texas Property Code. Failure to comply with the time periods or actions specified in Section 27.004 could affect a Claim if the Claim is subject to Chapter 27 of the Texas Property Code. The one hundred and twenty (120) day period for mediation set forth in **Section 16.7** below, is intended to provide the Claimant and Respondent with sufficient time to resolve the Claim in the event resolution is not accomplished during negotiation. If the Claim is not resolved during negotiation, mediation pursuant to **Section 16.7** is required without regard to the monetary amount of the Claim.

(b) If the Claimant is the Association, the Notice will also include (a) a true and correct copy of the Common Area Report, (b) a copy of the Engagement Letter, (c) copies of all reports, studies, analyses, and recommendations obtained by the Association related to the Common Area which forms the basis of the Claim, (d) a true and correct copy of the special meeting notice provided to Members in accordance with **Section 16.3.2** above, and (e) reasonable and credible evidence confirming that Members holding sixty-seven percent (67%) of the votes in the Association approved providing the Notice. If the Claimant is not the Association and pertains to the Common Area, the Notice will also include a true and correct copy of the Common Area Report. If the Claimant is not the Association and pertains to improvements on a Lot, the Notice will also include a true and correct copy of the Owner Improvement Report.

Section 16.6 Negotiation. Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within sixty (60) days after Respondent's receipt of the Notice, Respondent and Claimant will meet at a mutually-acceptable place and time to discuss the Claim. At such meeting or at some other mutually-agreeable time, Respondent and Respondent's representatives will have full access to the Property that is subject to the Claim for the purposes of inspecting the Property. If Respondent elects to take corrective action, Claimant will provide Respondent and Respondent's representatives and agents with full access to the Property to take and complete corrective action.

Section 16.7 Mediation. If the Parties negotiate but do not resolve the Claim through negotiation within one hundred twenty (120) days from the date of the Notice (or within such other period as may be agreed on by the Parties), Claimant will have thirty (30) additional days within which to submit the Claim to mediation under the auspices of a mediation center or individual mediator on which the Parties mutually agree. The mediator must have at least five (5) years of experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. If Claimant does not submit the Claim to mediation within the

thirty (30) day period, Claimant is deemed to have waived the Claim, and Respondent is released and discharged from any and all liability to Claimant on account of the Claim.

Section 16.8 Termination of Mediation. If the Parties do not settle the Claim within thirty (30) days after submission to mediation or within a time deemed reasonable by the mediator, the mediator will issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. Thereafter, Claimant may file suit or initiate arbitration proceedings on the Claim, as appropriate and permitted by this **Article XVI**.

Section 16.9 Binding Arbitration-Claims. All unresolved Claims must be settled by binding arbitration. Claimant or Respondent may, by summary proceedings (e.g., a plea in abatement or motion to stay further proceedings), bring an action in court to compel arbitration of any Claim not referred to arbitration as required by this **Section 16.9**.

16.9.1 Governing Rules. If a Claim has not been resolved after mediation as required by **Section 16.7**, the Claim will be resolved by binding arbitration in accordance with the terms of this **Section 16.9** and the rules and procedures of the American Arbitration Association ("**AAA**"). If the Parties are unable to agree on an arbitrator, then the Parties shall use AAA or another arbitration service mutually agreeable to the Parties. If the AAA is unable or unwilling to act as the arbitrator or the Parties cannot agree on the arbitration service to handle the arbitration, then the arbitration shall be conducted by another neutral reputable arbitration service selected by Respondent in Collin County, Texas. Regardless of what entity or person is acting as the arbitrator, the arbitration shall be conducted in accordance with the AAA's "Construction Industry Dispute Resolution Procedures" and, if they apply to the disagreement, the rules contained in the Supplementary Procedures for Consumer-Related Disputes. If such rules have changed or been renamed by the time a disagreement arises, then the successor rules will apply. Also, despite the choice of rules governing the arbitration of any Claim, if the AAA has, by the time of Claim, identified different rules that would specifically apply to the Claim, then those rules will apply instead of the rules identified above. In the event of any inconsistency between any such applicable rules and this **Section 16.9**, this **Section 16.9** will control. Judgment upon the award rendered by the arbitrator shall be binding and not subject to appeal except as provided in **Section 16.9.4**, but may be reduced to judgment or enforced in any court having jurisdiction. Notwithstanding any provision to the contrary or any applicable rules for arbitration, any arbitration with respect to Claims arising hereunder shall be conducted by (i) a mutually agreeable arbitrator, or (ii) if the Parties cannot agree on one (1) arbitrator, then a panel of three (3) arbitrators, to be chosen as follows:

(a) One arbitrator shall be selected by Respondent, in its sole and absolute discretion;

(b) One arbitrator shall be selected by the Claimant, in its sole and absolute discretion; and

(c) One arbitrator shall be selected by mutual agreement of the arbitrators having been selected by Respondent and the Claimant, in their sole and absolute discretion.

16.9.2 Exceptions to Arbitration; Preservation of Remedies. No provision of, nor the exercise of any rights under, this **Section 16.9** will limit the right of Claimant or Respondent, and Claimant and the Respondent will have the right during any Claim, to seek, use, and employ ancillary or preliminary remedies, judicial or otherwise, for the purposes of realizing upon, preserving, or protecting upon any property, real or personal, that is involved in a Claim, including, without limitation, rights and remedies relating to (1) exercising self-help remedies (including set-off rights), or (2) obtaining provisions or ancillary remedies such as injunctive relief, sequestration, attachment, garnishment, or the appointment of a receiver from a court having jurisdiction before, during, or after the pendency of any arbitration. The institution and maintenance of an action for judicial relief or pursuit of provisional or ancillary remedies or exercise of self-help remedies shall not constitute a waiver of the right of any party to submit the Claim to arbitration nor render inapplicable the compulsory arbitration provisions hereof.

16.9.3 Statute of Limitations. All statutes of limitation that would otherwise be applicable shall apply to any arbitration proceeding under this **Section 16.9**.

16.9.4 Scope of Award; Modification or Vacation of Award. The arbitrator shall resolve all Claims in accordance with the applicable substantive law. The arbitrator may grant any remedy or relief that the arbitrator deems just and equitable and within the scope of this **Section 16.9** and subject to **Section 16.10** below (attorney's fees and costs may not be awarded by the arbitrator); provided, however, that for a Claim, or any portion of a Claim, governed by Chapter 27 of the Texas Property Code, or any successor statute, in no event shall the arbitrator award damages which exceed the damages a Claimant would be entitled to under Chapter 27 of the Texas Property Code. In all arbitration proceedings, the arbitrator shall make specific, written findings of fact and conclusions of law. In all arbitration proceedings the parties shall have the right to seek vacation or modification of any award that is based in whole, or in part, on (1) factual findings that have no legally or factually sufficient evidence, as those terms are defined in Texas law, (2) conclusions of law that are erroneous, (3) an error of federal or state law, or (4) a cause of action or remedy not expressly provided under existing state or federal law. In no event may an arbitrator award speculative, consequential, or punitive damages for any Claim.

16.9.5 Other Matters. To the maximum extent practicable, an arbitration proceeding hereunder shall be concluded within one hundred and eighty (180) days of the filing of the Claim for arbitration by notice from either party to the other. Arbitration proceedings hereunder shall be conducted in Collin County, Texas. The arbitrator shall be empowered to impose sanctions and to take such other actions as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the Texas Rules of Civil Procedure and Applicable Law. Each party agrees to keep all Claims and arbitration proceedings strictly confidential, except for disclosures of information required in the ordinary course of business of the parties or by Applicable Law or regulation. In no event shall any party discuss with the news media or grant any

interviews with the news media regarding a Claim or issue any press release regarding any Claim without the written consent of the other parties to the Claim.

Section 16.10 Allocation of Costs. Notwithstanding any provision in this Declaration to the contrary, each Party shall bear all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, Mediation and Arbitration sections above, including its attorney's fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator and arbitrator(s).

Section 16.11 General Provisions. A release or discharge of Respondent from liability to Claimant on account of the Claim does not release Respondent from liability to persons who are not a Party to Claimant's Claim.

Section 16.12 Period of Limitation.

16.12.1 For Actions by an Owner. The exclusive period of limitation for any of the Parties to bring any Claim, including, but not limited to, a Claim relating to a construction defect or the defective design of a residence, shall be the earliest of: (1) for Claims alleging a construction defect or the defective design, two years and one day from the date that the Owner discovered or reasonably should have discovered evidence of the Claim; (2) for Claims other than those alleging a construction defect or the defective design, four years and one day from the date that the Owner discovered or reasonably should have discovered evidence of the Claim; or (3) for all Claims, the applicable statute of limitations under Texas law. In no event shall this **Section 16.12.1** be interpreted to extend any period of limitations under Texas law.

16.12.2 For Actions by the Association. The exclusive period of limitation for the Association to bring any Claim, including, but not limited to, a Claim for a construction defect or the defective design of the Common Areas, shall be the earliest of: (1) for Claims alleging a construction defect or the defective design, two years and one day from the date that the Association or its agents discovered or reasonably should have discovered evidence of the Claim; (2) for Claims other than those alleging a construction defect or the defective design of the Common Areas, four years and one day from the date that the Association discovered or reasonably should have discovered evidence of the Claim; or (3) for all Claims, the applicable statute of limitations under Texas law. In no event shall this **Section 16.12.2** be interpreted to extend any period of limitations under Texas law.

Section 16.13 Litigation Approval and Settlement. The Association must levy a Special Assessment to fund the estimated costs of arbitration, including estimated attorney's fees, conducted pursuant to this **Article XVI** or any judicial action initiated by the Association. The Association may not use its annual operating income or reserve funds or savings to fund arbitration or litigation, unless the Association's annual budget or a savings account was established and funded from its inception as an arbitration and litigation reserve fund.

Section 16.14 Limitation on Consolidation or Joinder. No mediation, arbitration, or other action arising out of or relating to this Declaration or any other documents shall include, by consolidation or joinder or in any other manner, the Declarant, the Association, any managing

agent engaged by the Declarant, the Association, or the Reviewer as a "Respondent" in such Claim, except by written consent containing specific reference to this Declaration signed by the Declarant, the Association, any managing agent engaged by the Declarant or the Association, or the Reviewer named as Respondent, as applicable, the Claimant, and any other person or entity sought to be joined. Consent to mediation, arbitration or other proceeding involving an additional person or entity shall not constitute consent to mediation, arbitration or other proceeding to resolve a Claim not described therein or with a person or entity not named or described therein. Notwithstanding the foregoing, the Declarant, if named as a "Respondent" in a Claim, may, at its option and in its sole and absolute discretion, elect to join or consolidate mediation or arbitration with a Claimant and other Claimant(s) or any other party having an interest in the proceedings. Each Owner by taking title to any Lot hereby consents to such joinder or consolidation, which may be ordered at the sole discretion or election of the Declarant.

**(Signature on next page)**

EXECUTED to be effective as of July, 28, 2020.

**DECLARANT:**

LDC LAVON, LLC,
a Texas limited liability company

By: _____
Steven H. Lenart, Manager

LAVON LAKEPOINTE DEVELOPMENT, LLC,
a Texas limited liability company

By: _____
Steven H. Lenart, Manager

STATE OF TEXAS §
§
COUNTY OF COLLIN §

BEFORE ME, the undersigned authority, on this day personally appeared Steven H. Lenart, the Manager of LDC LAVON, LLC, a Texas limited liability company, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and as the act and deed of said limited liability company, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, on this 28 day of July, 2020.

_____
Notary Public, State of Texas

[SEAL]

COLLEEN GACCIONE
Notary Public, State of Texas
Comm. Expires 05-11-2023
Notary ID 13022230-1

STATE OF TEXAS §
§
COUNTY OF COLLIN §

BEFORE ME, the undersigned authority, on this day personally appeared Steven H. Lenart, the Manager of Lavon LakePointe Development, LLC, a Texas limited liability company, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and as the act and deed of said limited liability company, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, on this 28 day of July, 2020.

Notary Public, State of Texas

[SEAL]

COLLEEN GACCIONE
Notary Public, State of Texas
Comm. Expires 05-11-2023
Notary ID 13022230-1

CONSENT AND SUBORDINATION OF LIENHOLDER

The undersigned, being the beneficiary under that certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of June 11, 2019, executed by LDC Lavon, LLC, a Texas limited liability company, and Lavon LakePointe Development, LLC, a Texas limited liability company (collectively, the "**Borrower**"), and recorded on JUNE 18, 2019, in Document Number 20190618000701280, in the Official Public Records of Collin County, Texas, together with any modifications, supplements, restatements or amendments thereto, hereby consents to the foregoing Declaration of Covenants, Conditions and Restrictions for LakePointe, as may be amended and modified pursuant to the terms thereof from time to time (as amended and modified, the "**Declaration**") to be applicable to the Land, in accordance with the terms thereof, and furthermore subordinates its lien rights and interests in and to the Land to the terms, provisions, covenants, conditions and restrictions under the Declaration so that foreclosure of its lien will not extinguish the terms, provisions, covenants, conditions and restrictions under the Declaration.

CITY BANK,
a TEXAS BANKING ASSOCIATION

By: _____
Name: JAMES SHUKIS
Title: SVP

STATE OF TEXAS §
§
COUNTY OF Collin §

BEFORE ME, the undersigned authority, on this day personally appeared James Shukis, the SVP of City Bank, a Banking Association, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same for the purposes and consideration therein expressed, and as the act and deed of said _____, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, on this 29th day of July, 2020.

Stephanie Lasater
Notary Public, State of Texas

[SEAL]

STEPHANIE LASATER
Notary Public, State of Texas
Comm. Expires 06-06-2021
Notary ID 125301216

**EXHIBIT "A"**
**TO**
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LAKEPOINTE**

**Property Description**

LEGAL DESCRIPTION

BEING a tract of land situated in the Samuel M. Ranier Survey, Abstract Number 470, in the City of Lavon, Collin County, Texas, being part of a tract of land described in a deed to Meredith M. Roark and Margaret M. Arnold, recorded in Document No. 2010526000533270, in the Deed Records of Collin County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod found at the southeast corner of said Roark and Arnold tract, being the southwest corner of a called 140.22 acre tract of land described in a deed to Petro Hunt, LLC, as recorded in Document No. 20070208000186500, in said Deed Records, also being in the north line of a tract of land described in a deed to Northeast Texas Rural Rail Transportation District, recorded in Volume 5585, Page 2680, in said Deed Records;

THENCE South 72 degrees 03 minutes 07 seconds West, with the south line of said Roark and Arnold tract and the north line of said Northeast Texas Rural Rail Transportation District tract, a distance of 1,656.82 feet to a 1/2-inch iron rod with red cap stamped "PJB SURVEYING" set at the southwest corner of said Roark and Arnold tract, being southeast corner of a 0.478 acre tract of land described in a deed to North Texas Municipal Water District, recorded in Document No. 20121116001469900, in said Deed Records;

THENCE North 23 degrees 30 minutes 56 seconds West, departing the north line of said Northeast Texas Rural Rail Transportation District tract, with the west line of said Roark and Arnold tract, and with the east lines of said 0.478 acre tract and a called 0.91 acre tract described in a deed to Mary Evans, recorded in Document No. 200804070014460, in said Deed Records, a distance of 173.19 feet to a 1/2-inch iron rod found;

THENCE North 01 degree 53 minutes 11 seconds West, continuing with the west line of said Roark and Arnold tract, and with the east lines of said 0.91 acre tract and a called 2.062 acre tract of land described in a deed to Connie S. Miller, recorded in Volume 4001, Page 947, in said Deed Records, a distance of 530.40 feet to a 1/2-inch iron rod found at the northeast corner of said 2.062 acre tract;

THENCE South 84 degrees 43 minutes 14 seconds West, continuing with the west line of said Roark and Arnold tract and with the north line of said 2.062 acre tract, a distance of 236.18 feet to a 1/2-inch iron rod found at the northwest corner of said 2.062 acre tract, being in the east line of a tract of land described as Tract Two in a deed to 78 Straddle, LP, recorded in Volume 5571, Page 3351, in said Deed Records, also being the approximate center of Bois D'Arc Lane (no recording information found);

THENCE North 06 degrees 53 minutes 43 seconds West, continuing with the west line of said Roark and Arnold tact, with the east lines of said Tract Two and a tract of land described as Tract

No. 2 in a deed to DPB Investments, LP, recorded in Document No. 20110606000576510, in said Deed Records, and along said Bois D'Arc Lane, a distance of 748.23 feet to a 1/2-inch iron rod with red cap stamped "PJB SURVEYING" set at the northeast corner of said Tract No. 2, being in the south line of a called 2.25 acre tract of land described in a deed to MJKMart, LLC, recorded in Document No. 20120906001115340, in said Deed Records;

THENCE South 89 degrees 16 minutes 47 seconds East, continuing with the west line of said Roark and Arnold tract and with the south line of said 2.25 acre tract, a distance of 64.98 feet to a 1/2-inch iron rod found at the southeast corner of said 2.25 acre tract;

THENCE North 11 degrees 02 minutes 32 seconds West, continuing with the west line of said Roark and Arnold tract and with the east line of said 2.25 acre tract, a distance of 490.85 feet to a 1/2-inch iron rod with red cap stamped "PJB SURVEYING" set at the north corner of said 2.25 acre tract, being in the east line of State Highway 78 (variable width right-of-way);

THENCE North 33 degrees 42 minutes 56 seconds East, continuing with the west line of said Roark and Arnold tract and with the east line of said State Highway 78, a distance of 1,298.45 feet to a 5/8-inch iron rod with TxDOT Aluminum cap found on a non-tangent curve to the left, having a radius of 5,729.57 feet and a central angle of 11 degrees 53 minutes 10 seconds;

THENCE continuing with the west line of said Roark and Arnold tract and the east line of said State Highway 78, and with said curve to the left, an arc distance of 1,188.61 feet (Chord Bearing North 27 degrees 54 minutes 44 seconds East – 1,186.48 feet);

THENCE, South 88 degrees 51 minutes 28 seconds East, departing said east and west lines, for a distance of 167.90 feet;

THENCE, North 33 degrees 46 minutes 49 seconds East, for a distance of 344.38 feet;

THENCE, South 88 degrees 51 minutes 28 seconds East, for a distance of 625.77 feet;

THENCE, North 01 degrees 01 minutes 20 seconds East, for a distance of 9.75 feet;

THENCE, South 88 degrees 58 minutes 40 seconds East, for a distance of 118.86 feet;

THENCE, South 01 degrees 01 minutes 20 seconds West, for a distance of 300.00 feet;

THENCE, South 88 degrees 51 minutes 28 seconds East, for a distance of 580.12 feet, in the east line of said Roark and Arnold tract, being in the west line of called 59.757 acre tract described in a deed to Petro Hunt LLC, records in Document No. 20070208000183240, in said Deed Records;

THENCE South 01 degree 00 minutes 58 seconds West, with the east line of said Roark and Arnold tract, and with the west line of said 59.757 acre tract, a distance of 1,450.63 feet to the southwest corner of said 59.757 acre tract, being in the north line of the aforementioned 140.22 acre tract;

THENCE North 88 degrees 51 minutes 38 seconds West, continuing with the east line of said Roark and Arnold tract and with the north line said 140.22 acre tract, a distance of 871.25 feet to a 1/2-inch iron rod found at the northwest corner of said 140.22 acre tract;

THENCE South 01 degree 09 minutes 20 seconds West, continuing with the east line of said Roark and Arnold tract and with the west line said 140.22 acre tract, a distance of 2,042.77 feet to the POINT OF BEGINNING and containing 173.037 acres of land.

**EXHIBIT "B"**
**TO**
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LAKEPOINTE**

**Design Guidelines**

## PART ONE: LANDSCAPING, FENCES AND EXTERIOR ELEMENTS

### SECTION 1.1 LANDSCAPING.

**LANDSCAPE RESTRICTIONS:**

Upon completion of each residence, each residence must comply with the landscaping requirements of any applicable City Ordinances and Association Rules. Notwithstanding compliance with the foregoing, the following landscape elements shall be installed prior to occupancy of the residence:

1.1.1 Sod: Each residence shall be fully sodded and irrigated. All Lots shall have sufficient underground irrigation systems for watering.

1.1.2 Trees: All Lots shall have at least one (1) three-inch (3") caliper tree installed in the front or rear of each Lot. A list of the approved tree species may be viewed in **Exhibit 7** attached. No tree may be planted closer than five (5) feet to any front, rear, or side property line on any Lot. Trees shall be measured at a point six inches (6") above ground level and at least 10 to 12 feet in height at the time of planting. Each homeowner shall be responsible for maintenance and preservation of trees located on their property and shall promptly replace dead trees within thirty (30) days of loss occurrence when favorable planting weather exists or sixty (60) days unless otherwise noticed by the ACC or Reviewer. ***The City may have a tree ordinance or tree preservation ordinance in place. Owner should check with the city before removing or replacing a tree.***

1.1.3 Shrubbery and Planting Beds: Each residence shall have a landscape bed in the front yard containing mulch top dressing and at a minimum the following:

- **50-foot lots shall contain two 10-gallon shrubs, seven 5-gallon shrubs or native grasses, and ten 3-gallon shrubs or native grasses.**
- **60-foot lots shall contain two 10-gallon shrubs, eleven 5-gallon shrubs or native grasses, fourteen 3-gallon shrubs or native grasses.**

The homeowner shall be responsible for the maintenance and preservation of the shrubs and planting bed and shall promptly replace dead shrubbery within thirty (30) days of loss occurrence when favorable planting weather exists or sixty (60) days unless otherwise noticed by the ACC or Reviewer.

### SECTION 1.2 FENCES.

**FENCE RESTRICTIONS:**

- **ALL lots within Residential Planning Area shall contain a wood or wrought iron/tubular steel fence constructed prior to issuance of a certificate of occupancy.**
- **Wood fences shall be a minimum of six feet (6') and a maximum of eight feet (8') in height, utilize steel posts and be constructed of spruce or cedar only and stained. The height of six feet (6') shall be the standard height used throughout the development. Use of eight-foot (8') fencing shall require prior written approval of the ACC.**
- **On Lots facing a public street, all fences shall be constructed with posts inside so only the smooth side of the fence is visible from a public street.**
- **Rear yard fencing that extends toward the front of the dwelling shall terminate no closer than ten feet (10') from the front building line.**
- **On corner lots, side yard fencing shall not encroach more than five feet (5') beyond the side building line that is adjacent to the side street.**
- **Wooden fencing adjacent to open space, common areas, detention areas, and the exterior property boundary shall comply with Exhibits 4 & 4C attached to these Design Guidelines.**
- **Wrought iron/tubular steel fencing shall be a minimum of six feet (6') and a maximum of eight feet (8') in height and powder coated. Wrought iron/tubular steel fencing locations and construction shall comply with Exhibits 4 & 4C attached to these Design Guidelines.**
- **Approved Fence Stain shall be Seal Rite Medium Brown. Any other stain color must receive prior written approval of the ACC.**
- **See Sections 1.2.1, 1.2.2, and 1.2.3 below for more information.**

1.2.1 Major thoroughfares and Corner Lots shall comply with the fence restrictions above. This fencing shall be spruce or cedar, stained utilizing board-on-board with:

- 2" x 10" CAP, 1" x 6" Trim, 2" x 4" Stringers, and 1" x 4" Pickets
- 8-foot on center maximum fence post spacing, 2-3/8" galvanized pole with CAP.
- A minimum of one-inch (1") gap between ground and bottom of fence.

1.2.2 Standard Wood Builder Side and Rear Yard Fences – Interior Lots shall comply with the fence restrictions in this **Section 1.2**. This fencing shall be spruce or cedar, stained utilizing board- to-board with:

- 2" x 4" Stringers, and 1" x 4" Flat Top Pickets
- 8-foot on center maximum fence post spacing, 2-3/8" galvanized pole with CAP.
- A minimum of one-inch (1") gap between ground and bottom of fence.

1.2.3 Wrought Iron / Tubular Steel Fencing shall comply with the fence restrictions above. This fencing shall be wrought iron or tubular steel only, powder coated with:

- 2" x 2" tubular square ornamental metal post installed with a maximum spacing of eight feet (8') on center.
- ¾-inch square tubular ornamental metal pickets mounted four inches (4") on center apart.
- 1-1/2" x 1-1/2" tube rails located at top and bottom of fence.
- All fence members must be welded.

All fences shall comply with the standards above. Fence areas shall be kept in good condition at all times and any disrepair corrected immediately. Repair of leaning fences, broken or missing pickets do not require the approval of the ACC however, the same materials and stain color must be used when making these repairs. ***Partial or full replacement of a fence, a fence extension or the addition of a gate must receive the prior written permission of the ACC***. Fence permits and a neighbor consent may be required by the ACC prior to issuance of an approval. ***Failure of any Owner to comply with the fence restrictions herein noted are subject to self-help actions by the Association, monetary fines for non-compliance and/or a demand for removal and replacement of any non-conforming structure.***

**SECTION 1.3 MAIL BOXES:**

1.3.1 If required by the U.S. Postal Service, Cluster type mailboxes will be utilized and may be constructed in various locations to serve several lots.

1.3.2 Mail Box Location: The cluster mail boxes shall be placed in location(s) as agreed upon by the Declarant and the U.S. Postal Service.

**SECTION 1.4 FLAGS AND FLAGPOLES**

1.4.1 The only flags which may be displayed are: (i) the flag of the United States of America; (ii) the flag of the State of Texas; (iii) an official or replica flag of any branch of the United States armed forces; (iv) in the front yard area of a model home operated by a Builder, the flag of a Builder; and (v) school spirit flags. No other types of flags, pennants, banners, kits or similar types of displays are permitted on a Lot if the display is visible from a street or Common Properties.

1.4.2 The flag of the United States must be displayed in accordance with 4 U.S.C. Sections 5-10.

1.4.3 The flag of the State of Texas must be displayed in accordance with Chapter 3100 of the Texas Government Code.

1.4.4 Any freestanding flagpole, or flagpole attached to a residence, shall be constructed of permanent, long-lasting materials. The materials used for the flagpole shall be harmonious with the residence and must have a silver finish with a gold or silver ball at the top. The flagpole must not exceed three (3) inches in diameter.

1.4.5 The display of a flag, or the location and construction of the supporting flagpole, shall comply with applicable City Ordinances, easements, and setbacks of record.

1.4.6 A displayed flag, and the flagpole on which it is flown, shall be maintained in good condition at all times. Any flag that is deteriorated must be replaced or removed. Any flagpole that is structurally unsafe or deteriorated shall be repaired, replaced, or removed.

1.4.7 Only one flagpole will be allowed per Lot. A flagpole can either be securely attached to the face of the residence (no other structure) or be a freestanding flagpole. A flagpole attached to the residence may not exceed 4 feet in length. A freestanding flagpole may not exceed 20 feet in height. Any freestanding flagpole must be located in either the front yard or backyard of a Lot, and there must be a distance of at least 5 feet between the flagpole and the property line.

1.4.8 Any flag flown or displayed on a freestanding flagpole may be no smaller than 3'x5' and no larger than 4'x6'.

1.4.9 Any flag flown or displayed on a flagpole attached to the residence may be no larger than 3'x5'.

1.4.10 Any freestanding flagpole must be equipped to minimize halyard noise. The preferred method is through the use of an internal halyard system. Alternatively, swivel snap hooks must be covered or "Quiet Halyard" Flag snaps installed. Neighbor complaints of noisy halyards are a basis to have flagpole removed until Owner resolves the noise complaint.

1.4.11 The illumination of a flag is allowed so long as it does not create a disturbance to other residents in the community. Solar powered, pole mounted light fixtures are preferred as opposed to ground mounted light fixtures. Compliance with all municipal requirements for electrical ground mounted installations must be certified by Owner. Flag illumination may not shine into another residence. Neighbor complaints regarding flag illumination are a basis to prohibit further illumination until Owner resolves complaint.

1.4.12 Flagpoles shall not be installed in Common Properties or any property maintained by the Association.

1.4.13 All freestanding flagpole installations must receive prior written approval of ACC.

**SECTION 1.5 RAIN BARRELS OR RAINWATER HARVESTING SYTEMS**

1.5.1 Rain barrels or rain water harvesting systems and related system components (collectively, "**Rain Barrels**") may only be installed after receiving the written approval of the Reviewer.

1.5.2 Rain Barrels may not be installed upon or within Common Properties.

1.5.3 Under no circumstances shall Rain Barrels be installed or located in or on any area within a Lot that is in-between the front of the property owner's home and an adjoining or adjacent street.

1.5.4 The rain barrel must be of color that is consistent with the color scheme of the property owner's home and may not contain or display any language or other content that is not typically displayed on such Rain Barrels as manufactured.

1.5.5 Rain Barrels may be located in the side-yard or back-yard of an owner's Residential Parcel so long as these may not be seen from a street, another Lot or any Common Properties.

1.5.6 In the event the installation of Rain Barrels in the side-yard or back-yard of an owner's property in compliance with paragraph 1.5.5 above is impossible, the Reviewing Body may impose limitations or further requirements regarding the size, number and screening of Rain Barrels with the objective of screening the Rain Barrels from public view to the greatest extent possible. The owner must have sufficient area on their Lot to accommodate the Rain Barrels.

1.5.7 Rain Barrels must be properly maintained at all times or removed by the owner.

1.5.8 Rain Barrels must be enclosed or covered.

1.5.9 Rain Barrels which are not properly maintained become unsightly or could serve as a breeding pool for mosquitoes must be removed by the owner from the Lot.

**SECTION 1.6 RELIGIOUS DISPLAYS**

1.6.1 An owner may display or affix on the entry to the owner's or occupant's residence one or more religious items, the display of which is motivated by the owner's or resident's sincere religious belief.

1.6.2 If displaying or affixing of a religious item on the entry to the owner's or occupant's residence violates any of the following covenants, The Association may remove the item displayed:

(1) threatens the public health or safety;

(2) violates a law;

(3) contains language, graphics, or any display that is patently offensive to a passerby;

(4) is in a location other than the entry door or door frame or extends past the outer edge of the door frame of the owner's or occupant's residence; or

(5) individually or in combination with each other religious item displayed or affixed on the entry door or door frame has a total size of greater than 25 square inches

1.6.3 No owner or resident is authorized to use a material or color for an entry door or door frame of the owner's or occupant's residence or make an alteration to the entry door or door frame that is not authorized by the Association, Declaration or otherwise expressly approved by the Architectural Control Committee.

[Part Two Begins on the Next Page]

## PART TWO: RESIDENCES

### SECTION 2.1 ROOFS

2.1.1 Roof Pitch: A minimum of a 6-in-12 roof pitch is required on all structures with the exception of garages, patios and porches, which shall have a minimum of 4-in-12 roof pitch. All roof pitches must have the prior written consent of the ACC.

2.1.2 Roofing Materials: Roofing materials shall be composition shingles, tile, slate or metal. A variance to this concept may be requested notwithstanding, the variance must be submitted to the city first and then to the Association. A copy of the city's variance must accompany any variance request submitted to the ACC or it will be denied. A minimum 30-year rated shingle having a minimum weight of 220 pounds per square (100 square feet) is required and all roofs shall have a weather wood or gray color. Other colors shall not be used without written approval from the ACC.

2.1.3 Gutters: Gutters shall be placed on all main roof edges. Gutters shall match in style, color, and quality the roof and exterior of the main residence.

### SECTION 2.2 CERTAIN ROOFING MATERIALS

2.2.1 Roofing shingles covered by this Section are exclusively those designed primarily to: (i) be wind and hail resistant; (ii) provide heating and cooling efficiencies greater than those provided by customary composite shingles; or (iii) provide solar generation capabilities (collectively, "Roofing Shingles").

2.2.2 Roofing Shingles allowed under this Section 2.2 shall:

(1) resemble the shingles used or otherwise authorized for use in the Subdivision and/or Property;
(2) be more durable than and are of equal or superior quality to the shingles used or otherwise authorized for use in the Subdivision and/or Property.
(3) match the aesthetics of the property surrounding the property of the owner requesting permission to install the Roofing Shingles.

2.2.3 The owner requesting permission to install the Roofing Shingles will be solely responsible for accrediting, certifying and demonstrating to the Reviewer that the proposed installation is in full compliance with paragraphs a and b above.

2.2.4 Roofing Shingles shall be installed after receiving the written approval of the Reviewer.

2.2.5 Owners are hereby placed on notice that the installation of Roofing Materials may void or adversely other warranties.

## SECTION 2.3 SOLAR PANELS

2.3.1 Solar energy devices, including any related equipment or system components (collectively, "**Solar Panels**") may only be installed after receiving the written approval of the Architectural Control Committee.

2.3.2 Solar Panels may not be installed upon or within Common Properties or any area which is maintained by the Association.

2.3.3 Solar Panels may only be installed on designated locations on the roof of a home, on any structure allowed under any Association dedicatory instrument, or within any fenced rear-yard or fenced-in patio of the owner's property, but only as allowed by the Reviewer. **Solar Panels may not be installed on the front elevation of the home**.

2.3.4 If located on the roof of a home, Solar Panels shall:

(1) not extend higher than or beyond the roofline;
(2) conform to the slope of the roof;
(3) have a top edge that is parallel to the roofline; and
(4) have a frame, support bracket, or wiring that is black or painted to match the color of the roof tiles or shingles of the roof. Piping must be painted to match the surface to which it is attached, i.e. the soffit and wall. Panels must blend with the color of the roof to the greatest extent possible.

2.3.5 If located in the fenced rear-yard or patio, Solar Panels shall not be taller than the fence line or visible from a Lot, Common Properties or street.

2.3.6 The Reviewer may deny a request for the installation of Solar Panels if it determines that the placement of the Solar Panels, as proposed by the property owner, will create an interference with the use and enjoyment of land of neighboring owners.

2.3.7 Owners are hereby placed on notice that the installation of Solar Panels may void or adversely affect roof warranties. Any installation of Solar Panels which voids material warranties is not permitted and will be cause for the Solar Panels to be removed by the owner.

2.3.8 Solar Panels must be properly maintained at all times or removed by the owner.

2.3.9 Solar Panels which become non-functioning or inoperable must be removed by the owner of the property.

## SECTION 2.4 EXTERIOR WALLS

2.4.1 Exterior Wall Materials: Exterior construction materials for residential structures

(excluding accessory structures) shall consist of brick, stone, synthetic stone, 3-coat stucco, and upon written consent of the ARC, up to twenty-five percent (25%) decorative pattern Cementitious fiberboard excluding windows, doors, and other normal openings, fascia, and architectural details (corbels, exposed beams, guardrails, handrails, dormers, etc.). **Brick, stone, synthetic stone, and 3-coat stucco system are herein defined as acceptable "Masonry Materials" for use in LakePointe.** For the purpose of these Design Guidelines, Cementitious Fiberboard is defined as siding that overlaps horizontally, with no vertical overlapping of the material and **MAY NOT** be calculated as part of the required "Masonry Material" for residences.

2.4.1.1 **Front Walls**: ALL FRONT ELEVATIONS SHALL CONSIST OF 100% MASONRY MATERIALS WHICH SHALL CONSIST OF BRICK, STONE, SYNTHETIC STONE OR STUCCO. AS NOTED IN 2.4.1 ABOVE, NO MORE THAN 25% OF THE FRONT ELEVATIN MAY INCLUDE DECORATIVE PATTERNED CEMENTITIOUS FIBERBOARD, notwithstanding, the ARC shall have sole discretion in determining what patterns and/or colors may be used. ***Use of siding for hidden or concealed areas not visible from the front of the home or street may be allowed however, the siding may not be visible.*** NO other materials will be allowed without the express written consent of the ARC. **All requests must receive the written consent of the ARC prior to use. Failure to meet the guidelines for exterior walls may result in a request for removal and re-application at the Builder's sole expense.**

2.4.1.2 **Side and Rear Walls**: Side elevations shall consist of no less than 75% masonry materials and Rear elevations shall consist of no less than 50% masonry materials.

2.4.1.3 **Chimneys**: Construction materials for chimneys built on an exterior wall shall consist of 100% masonry material. Construction for other all other chimneys shall consist of cementitious fiberboard.

2.4.1.5 Required masonry percentages shall be calculated excluding exterior wall areas built on top of a roof.

## SECTION 2.5 WINDOWS

2.5.1 Windows shall be constructed of vinyl, divided light on all front windows, divided light on all windows backing siding collectors, parks or open spaces. Bay windows to meet the Gifts to the Street guidelines may be used upon written permission of the Architectural Reviewer. Reflective glass is prohibited.

## SECTION 2.6 GARAGE

2.6.1 Garages may be front, side or rear facing. To meet certain exterior architectural

features required under the Design Guidelines, garage doors shall be upgraded garage doors to include one or more of the following:

- Accent / decorative hardware
- Windows
- Wood or wood-like texture (metal with wood overlay acceptable)

Garage doors may be carriage style as long as they contain decorative hardware, are of a lighter shade and contain a decorative theme or accents. A variety of garage doors to meet the City's architectural feature requirements is required therefore, the ACC reserves the right to deny use of certain garage doors if the architectural standards required are not evenly being met throughout the community.

**Builders must include plans for the type of garage door they intend to use when submitting the construction plans for review and approval.** Failure by Builder to submit this information could result in a request for removal of a non-conforming garage door and replacement with a different material, style, and type. Garages shall be kept in good repair at all times. No painting or staining of garage doors is allowed without the prior written consent of the ACC. No garage may be used as a business or living space. Damages to garage doors must be timely repaired or the garage door replaced. All such modifications shall require the prior written consent of the ACC.

## SECTION 2.7 ADDRESS BLOCKS

2.7.1 All address blocks shall be cast stone.

## SECTION 2.8 EXTERIOR ARCHITECTURAL FEATURES

2.8.1 Single Family Detached Dwellings shall utilize at least two (2) of the following design Exterior Architectural Features to provide visual relief along the front of residences or the sides of residences facing a street. **This is a mandatory requirement.**

- Front elevation comprised of 100% brick and/or stone
- Multiple eight-foot (8') garage doors in lieu of a single garage door
- Side or rear entry garages on a corner Lot
- Eyebrow or arched front Windows
- Cast stone accents on the front elevation
- Covered front porches of a minimum of fifty (50) square feet
- Front porch railings of either wood or wrought iron
- Front door with at least twenty percent (20%) area covered with decorative glass or wrought iron
- Gables facing the public street
- Metal roof accents. See Design Guidelines for examples of acceptable metal roof accents
- Recessed entryway, a minimum of three feet (3') deep
- Variable roof pitch with one of the pitches greater than 6:12
- Wooden or synthetic shutters on the front elevation or any side elevation facing a street. A minimum of six (6) shutters facing the respective street are required to satisfy this feature. **NO plastic shutters are permitted.**

## SECTION 2.9 ELEVATION AND BRICK USAGE

2.9.1 The same house elevation and brick color may not be duplicated within three (3) Lots adjacent to the applicable Lot on the same side of the street and on the Lot directly across the street from the applicable Lot. **This is a city ordinance therefore, any variance to this Rule must first have the written permission of the city before submitting a request to the ARC.**

2.9.2 Exterior Material Area Calculations: **All residence plan submittals shall calculate the percentage coverage for each material as shown below. Percentage tables MUST be provided or the plans will be returned.**

2.9.2.1 Calculation Method: Calculations for material coverage percentages shall include all exposed areas of the wall surface, excluding window and door openings. Calculations shall indicate the area coverage for front, side, and rear wall areas. Calculations shall be submitted in the following format:

Brick Calculations

| | |
|---|---|
| ***Overall*** | |
| Total Wall Area | 0 sf |
| Total Brick Area | 0 sf |
| Total Brick Percentage | 0% |
| ***Front*** | |
| Total Wall Area | 0 sf |
| Total Brick Area | 0 sf |
| Total Brick Percentage | 0% |
| ***Left*** | |
| Total Wall Area | 0 sf |
| Total Brick Area | 0 sf |
| Total Brick Percentage | 0% |
| ***Right*** | |
| Total Wall Area | 0 sf |
| Total Brick Area | 0 sf |
| Total Brick Percentage | 0% |
| ***Rear*** | |
| Total Wall Area | 0 sf |
| Total Brick Area | 0 sf |
| Total Brick Percentage | 0% |

**EXHIBIT "C"**
**TO**
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LAKEPOINTE**

**Certificate of Formation, Organizational Consent and Bylaws**

# BYLAWS
# OF
# LAKEPOINTE AT LAVON HOMEOWNERS ASSOCIATION, INC.

## ARTICLE I
## INTRODUCTION

The name of the corporation is LakePointe at Lavon Homeowners Association, Inc. a Texas non-profit corporation, hereinafter referred to as the "Association". The principal office of the Association shall be located in Collin County, Texas, but meetings of Members and Directors may be held at such places within the State of Texas, as may be designated by the Board of Directors.

The Association is organized to be a nonprofit corporation.

**Notwithstanding anything to the contrary in these Bylaws, a number of provisions are modified by the Declarant's reservations in that certain Declaration of Covenants, Conditions and Restrictions for LakePointe at Lavon recorded in the Official Public Records of Collin County, Texas, including the number, qualification, appointment, removal, and replacement of Directors.**

## ARTICLE II
## DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in these Bylaws shall have the meanings hereinafter specified:

**Section 2.1. Assessment.** "Assessment" or "Assessments" shall mean assessment(s) levied by the Association under the terms and provisions of the Declaration.

**Section 2.2. Association.** "Association" shall mean and refer to LakePointe at Lavon Homeowners Association, Inc., a Texas nonprofit corporation.

**Section 2.3. Association Property.** "Association Property" shall mean all real or personal property now or hereafter owned by the Association, including without limitation, all easement estates, licenses, leasehold estates and other interests of any kind in and to real or personal property which are now are hereafter owned or held by the Association.

**Section 2.4. Association Restrictions.** "Association Restrictions" shall mean the Declaration of Covenants, Conditions and Restrictions for LakePointe at Lavon Homeowners Association, Inc. as the same may be amended from time to time, together with the Certificate, Bylaws, and Association Rules from time to time in effect.

**Section 2.5. Association Rules.** "Association Rules" shall mean the rules and regulations adopted by the Board pursuant to the Declaration, as the same may be amended from time to time.

**Section 2.6. Board.** "Board" shall mean the Board of Directors of the Association. During the period of Declarant control, Declarant shall have the sole right to appoint and remove Directors of the Board.

**Section 2.7. Bylaws.** "Bylaws" shall mean the Bylaws of the Association which may be adopted by the Board and as the same may be amended from time to time.

**Section 2.8. Certificate.** "Certificate" shall mean the Certificate of Formation of LakePointe at Lavon Homeowners Association, Inc., a Texas non-profit corporation, filed in the office of the Secretary of State of the State of Texas, as the same may from time to time be amended.

**Section 2.9. Declarant.** "Declarant" shall mean LDC Lavon, LLC, a Texas limited liability company, and its duly authorized representatives or their successors or assigns; provided that any assignment of the rights of Declarant must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder.

**Section 2.10. Declaration.** "Declaration" shall mean the "Declaration of Covenants, Conditions and Restrictions for LakePointe at Lavon Homeowners Association, Inc.", recorded in the Official Public Records of Collin County, Texas, as the same may be amended from time to time.

**Section 2.11. Development.** "Development" shall mean and refer to the property subject to the terms and provisions of the Declaration.

**Section 2.12. Manager.** "Manager" shall mean the person, firm, or corporation, if any, employed by the Association pursuant to the Declaration and delegated the duties, powers, or functions of the Association.

**Section 2.13. Member.** "Member" or "Members" shall mean any person(s), entity or entities holding membership privileges in the Association as provided in the Declaration.

**Section 2.14. Mortgage.** "Mortgage" or "Mortgages" shall mean any mortgage(s) or deed(s) of trust covering any portion of the Property given to secure the payment of a debt.

**Section 2.15. Mortgagee.** "Mortgagee" or "Mortgagees" shall mean the holder or holders of any lien or liens upon any portion of the Property.

**Section 2.16. Owner.** "Owner" or "Owners" shall mean the person(s), entity or entities, including Declarant, holding a fee simple interest in any Lot, but shall not include the Mortgagee of a Mortgage.

Unless otherwise defined in these Bylaws or the context otherwise requires, each term used in these Bylaws with its initial letter capitalized which has been specifically defined in the

Declaration and not otherwise specifically defined in this Article II shall have the same meaning herein as given to such term in the Declaration.

## ARTICLE III
## MEETING OF MEMBERS

**Section 3.1. Annual Meetings.** The first annual meeting of the Members shall be held on such date as selected by the Board of Directors which is on or before the earlier of (i) the date which is one hundred twenty (120) days after seventy-five percent (75%) of the Lots have been sold to non-Declarant Owners, or (ii) ten (10) years from the date on which the Declaration is recorded in the Official Public Records of Collin County, Texas, and each subsequent regular annual meeting of the Members shall be held on such date as selected by the Board of Directors who shall, whenever possible, hold the annual meeting in the same month each year thereafter unless a different date is selected by the Board of Directors. The annual meeting shall not be held on a Saturday, Sunday, or legal holiday.

**Section 3.2. Special Meetings.** Special meetings of the Members may be called at any time by the President or by a majority vote of the Board of Directors, or upon written request of the Members who are entitled to vote fifty-one percent (51%) or more of the votes of the Association.

**Section 3.3. Place of Meetings.** Meetings of the Association may be held at the Development or at a suitable place convenient to the Members, as determined by the Board.

**Section 3.4. Notice of Meetings.** At the direction of the Board, written notice of meetings of the Association will be given to the Members at least ten (10) days but not more than sixty (60) days prior to the meeting. Notices of meetings will state the date, time, and place the meeting is to be held. Notices will identify the type of meeting as annual or special, and will state the particular purpose of a special meeting. Notices may also set forth any other items of information deemed appropriate by the Board.

**Section 3.5. Voting Member List.** The Board will prepare and make available a list of the Association's voting Members in accordance with the Texas Business Organization Code.

**Section 3.6. Quorum.** The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, ten percent (10%) of the total votes of the membership shall constitute a quorum for any action, except as otherwise provided in the Certificate, the Declaration, or these Bylaws. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be five percent (5%) of all the votes of all Members. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting. If the required quorum is not present or represented at any meeting, the Members entitled to vote at the meeting shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented.

**Section 3.7. Proxies.** Votes may be cast in person or by written proxy. To be valid, each proxy must: (i) be signed and dated by a Member or his attorney-in-fact; (ii) identify the Lot to which the vote is appurtenant; (iii) name the person or title (such as "presiding officer") in favor of whom the proxy is granted, such person having agreed to exercise the proxy; (iv) identify the meeting for which the proxy is given; (v) not purport to be revocable without notice; and (vi) be

delivered to the secretary, to the person presiding over the Association meeting for which the proxy is designated, or to a person or company designated by the Board. Unless the proxy specifies a shorter or longer time, it terminates eleven (11) months after the date of its execution. Perpetual or self-renewing proxies are permitted, provided they are revocable. To revoke a proxy, the granting Member must give actual notice of revocation to the person presiding over the Association meeting for which the proxy is designated. Unless revoked, any proxy designated for a meeting which is adjourned, recessed, or rescheduled is valid when the meeting reconvenes. A proxy may be delivered by fax. However, a proxy received by fax may not be counted to make or break a tie-vote unless: (a) the proxy has been acknowledged or sworn to by the Member, before and certified by an officer authorized to take acknowledgments and oaths; or (b) the Association also receives the original proxy within five (5) days after the vote.

**Section 3.8. Conduct of Meetings.** The president, or any person designated by the Board, presides over meetings of the Association. The secretary keeps, or causes to be kept, the minutes of the meeting which should record all resolutions adopted and all transactions occurring at the meeting, as well as a record of any votes taken at the meeting. The person presiding over the meeting may appoint a parliamentarian. Votes should be tallied by tellers appointed by the person presiding over the meeting.

**Section 3.9. Order of Business.** Unless the notice of meeting states otherwise or the assembly adopts a different agenda at the meeting, the order of business at meetings of the Association is as follows:

- Determine votes present by roll call or check-in procedure
- Announcement of quorum
- Proof of notice of meeting
- Approval of minutes of preceding meeting
- Reports of Officers (if any)
- Election of Directors (when required)
- Unfinished or old business
- New business

**Section 3.10. Adjournment of Meeting.** At any meeting of the Association, a majority of the Members present at that meeting, either in person or by proxy, may adjourn the meeting to another time and place.

**Section 3.11. Action without Meeting.** Subject to Board approval, any action which may be taken by a vote of the Members at a meeting of the Association may also be taken without a meeting by written consents. The Board may permit Members to vote by any method allowed by the Texas Business Organization Code, which may include hand delivery, United States Mail, facsimile, e-mail, or any combination of these. Written consents by Members representing at least a majority of votes in the Association, or such higher percentage as may be required by the Documents, constitutes approval by written consent. This Section may not be used to avoid the requirement of an annual meeting and does not apply to the election of Directors.

**Section 3.12. Telephone Meetings.** Members of the Association may participate in and hold meetings of the Association by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other.

Participation in the meeting constitutes presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

## ARTICLE IV
## BOARD OF DIRECTORS

**Section 4.1. Authority; Number of Directors.**

(a) The affairs of the Association shall be governed by a Board of Directors. The number of Directors shall be fixed by the Board of Directors from time to time. The initial Directors shall be three (3) in number and shall be those Directors named in the Certificate of Formation. The initial Directors shall serve until their successors are elected and qualified. Except as is provided in the Declaration and in Sections 4.1(b) and 4.1(c) below, **Declarant shall have the absolute right to appoint and remove members of the Board of Directors for as long as Declarant owns any Lot affected by the Declaration or as long as the Declarant Control Period is in effect, whichever occurs last.**

(b) From and after the first annual meeting of Members and until the date (the "Transition Date") which is the earlier of (i) one hundred-twenty (120) days after seventy-five (75%) of the Lots have been sold to non-Declarant Owners, or (ii) ten (10) years from the date on which the Declaration is recorded in the Official Public Records of Collin County, Texas, the Board of Directors shall consist of three (3) persons appointed by Declarant who need not be Members of the Association. On and after the Transition Date, the Board of Directors shall include two (2) persons appointed by Declarant and one (1) person elected by a majority vote of Class A Members ("Non-Declarant Director") at such meeting at which quorum is present, which Non-Declarant Member shall serve for a period which is the shorter of one (1) year, or until the next annual meeting of the Members at which the Non-Declarant Member (or replacement thereof) shall be elected. The Non-Declarant Director shall be elected at the first annual meeting (or special meeting called for such purpose by the President of the Association) of Members held on or after the Transition Date. On and after the date on which the last Lot is sold to a non-Declarant Owner (the "Declarant Turnover Date"), the President of the Association will call a meeting of the Members of the Association where the Members may increase the number of Directors to include five (5) Directors, and will elect one (1) Director for a three (3) year term, and two (2) Directors for a two (2) year term, and – if the number of Directors in increased to five (5) directors – one (1) additional Director for a three (3) year term and one (1) additional Director for a two (2) year term. The member(s) obtaining the most votes will serve the three (3) year term and the member(s) with the highest number of votes thereafter will serve a term of two (2) years. Upon expiration of the term of a Director elected by the Members pursuant to this Section 4.1(b), his or her successors elected shall serve a term of two (2) years. A Director takes office upon the adjournment of the meeting or balloting at which he is elected or appointed and, absent death, ineligibility, resignation, or removal, will hold office until his successor is elected or appointed. The Board of Directors shall have the power and authority when it is deemed in the best interest of the Association to change or alter the terms of office which shall be done by Board resolution notwithstanding, terms must remain staggered for the purpose of continuity.

(c) Each Director, other than Directors appointed by Declarant, shall be a Member and resident, or in the case of corporate or partnership ownership of a Lot, a duly authorized agent or

representative of the corporate or partnership Owner. The corporate, or partnership Owner shall be designated as the Director in all correspondence or other documentation setting forth the names of the Directors.

**Section 4.2. Compensation.** The Directors shall serve without compensation for such service.

**Section 4.3. Nominations to Board of Directors.** Members may be nominated for election to the Board of Directors in either of the following ways:

(a) A Member who is not a Director and who desires to run for election to that position shall be deemed to have been nominated for election upon his filing with the Board of Directors a written petition of nomination; or

(b) A Director who is eligible to be re-elected shall be deemed to have been nominated for re-election to the position he holds by signifying his intention to seek reelection in a writing addressed to the Board of Directors.

**Section 4.4. Removal of Directors for Cause.** If a Director breaches such Director's duties hereunder or violates the terms of the Declaration, the Certificate, the Association Rules or these Bylaws, such Director may be removed by Declarant unless Declarant no longer has the right to appoint and remove Directors in accordance with Section 4.1 of these Bylaws, and then by a majority vote of the remaining Directors after Declarant's right to appoint and remove Directors has expired. No Director shall have any voting rights nor may such Director participate in any meeting of the Board of Directors at any time that such Director is delinquent in the payment of any Assessments or other charges owed to the Association.

**Section 4.5. Vacancies on Board of Directors.** At such time as Declarant's right to appoint and remove Directors has expired or been terminated, if the office of any elected Director shall become vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, the remaining Directors, at a special meeting duly called for this purpose, shall choose a successor who shall fill the unexpired term of the directorship being vacated. If there is a deadlock in the voting for a successor by the remaining Directors, the one Director with the longest continuous term on the Board shall select the successor. At the expiration of the term of his position on the Board of Directors, the successor Director shall be re-elected or his successor shall be elected in accordance with these Bylaws.

**Section 4.6. Removal of Directors by Members.** Subject to the right of Declarant to nominate and appoint Directors as set forth in Section 4.1 of these Bylaws, an elected Director may be removed, with or without cause, by a majority vote of the Members at any special meeting of the Members of which notice has been properly given as provided in these Bylaws; provided the same notice of this special meeting has also been given to the entire Board of Directors, including the individual Director whose removal is to be considered at such special meeting.

**Section 4.7. Consent in Writing.** Any action by the Board of Directors, including any action involving a vote on a fine, damage assessment, appeal from a denial or architectural control approval, or suspension of a right of a particular Member before the Member has an opportunity to attend a meeting of the Board of Directors to present the Member's position on the issue, may be taken without a meeting if all of the Directors shall unanimously consent in writing to the action.

Such written consent shall be filed in the Minute Book. Any action taken by such written consent shall have the same force and effect as a unanimous vote of the Directors.

## ARTICLE V
## MEETINGS OF DIRECTORS

**Section 5.1. Regular Meetings.** Regular meetings of the Board shall be held annually or such other frequency as determined by the Board, without notice, at such place and hour as may be fixed from time to time by resolution of the Board.

**Section 5.2. Special Meetings.** Special meetings of the Board shall be held when called by the President of the Association, or by any two Directors, after not less than three (3) days' notice to each Director.

**Section 5.3. Quorum.** A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or 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 of Directors.

**Section 5.4. Telephone Meetings.** Members of the Board or any committee of the Association may participate in and hold meetings of the Board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in such meeting constitutes presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

**Section 5.6. Action without a Meeting.** Any action required or permitted to be taken by the Board at a meeting may be taken without a meeting, if all Directors individually or collectively consent in writing to such action. The written consent must be filed with the minutes of Board meetings. Action by written consent has the same force and effect as a unanimous vote.

## ARTICLE VI
## POWERS AND DUTIES OF THE BOARD

**Section 6.1. Powers.** The Board shall have power and duty to undertake any of the following actions, in addition to those actions to which the Association is authorized to take in accordance with the Declaration:

(a) adopt and publish the Association Rules, including regulations governing the use of the Association Property and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) to the maximum extent permitted under applicable law, suspend the voting rights of a Member and right of a Member to use of the Association Property during any period in which such Member shall be in default in the payment of any Assessment levied by the Association, or after notice and hearing, for any period during which an infraction of the Association Rules by such Member exists;

(c) exercise for the Association all powers, duties and authority vested in or related to the Association and not reserved to the membership by other provisions of the Association Restrictions;

(d) to enter into any contract or agreement with a municipal agency or utility company to provide electric utility service to all or any portion of the Property;

(e) declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board;

(f) employ such employees as they deem necessary, and to prescribe their duties;

(g) as more fully provided in the Declaration, to:

(1) fix the amount of the Assessments against each Lot in advance of each annual assessment period and any other assessments provided by the Declaration; and

(2) foreclose the lien against any property for which Assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same;

(h) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any Assessment has been paid and to levy a reasonable charge for the issuance of these certificates (it being understood that if a certificate states that an Assessment has been paid, such certificate shall be conclusive evidence of such payment);

(i) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(j) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

(k) exercise such other and further powers or duties as provided in the Declaration or by law.

**Section 6.2. Duties.** It shall be the duty of the Board to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by Members who are entitled to cast fifty-one percent (51%) of all outstanding votes; and

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

## ARTICLE VII
## OFFICERS AND THEIR DUTIES

**Section 7.1. Enumeration of Offices.** The officers of the Association shall be a President and a Vice-President, who shall at all times be members of the Board, a Secretary and a Treasurer, and such other officers as the Board may from time to time create by resolution.

**Section 7.2. Election of Officers.** The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

**Section 7.3. Term.** The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he resigns sooner, or shall be removed or otherwise disqualified to serve.

**Section 7.4. 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, have such authority, and perform such duties as the Board may, from time to time, determine.

**Section 7.5. Resignation and Removal.** Any officer may be removed from office with or without cause by the Board. 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 7.6. Vacancies.** A vacancy in any office may be filled through appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

**Section 7.7. Multiple Offices.** The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 7.4.

**Section 7.8. Duties.** The duties of the officers are as follows:

(a) President. The President, or any person designated by the Board, presides over meetings of the Association; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments such as promissory notes.

(b) Vice President. The Vice President or Vice Presidents (including, without limitation, Executive Vice Presidents and Senior Vice Presidents), if any, shall generally assist the President and shall have such powers and perform such duties and services as shall from time to time be prescribed or delegated by the President or the Board.

(c) Secretary. The Secretary shall cause to be recorded the votes and cause to be kept the minutes of all meetings and proceedings of the Board and of the Members; serve notice or cause to be served notice of meetings of the Board and of the Members; cause to be kept 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) Assistant Secretaries. Each Assistant Secretary shall generally assist the Secretary and shall have such powers and perform such duties and services as shall from time to time be prescribed or delegated to him or her by the Secretary, the President, the Board or any committee established by the Board.

(e) Treasurer. The Treasurer shall oversee the receipts and deposits in appropriate bank accounts all monies of the Association and shall oversee the disbursement of such funds as directed by resolution of the Board; shall sign, at the direction of the Board, promissory notes of the Association; cause to be kept proper books of account in appropriate form such that they could be audited by a public accountant whenever ordered by the Board or the membership; and shall cause to be prepared an annual budget and a statement of income and expenditures to be presented to the membership at its regular meeting, and cause to be delivered a copy of each to the Members.

## ARTICLE VIII
## OTHER COMMITTEES OF THE BOARD OF DIRECTORS

The Board may, by resolution adopted by affirmative vote of a majority of the number of Directors fixed by these Bylaws, designate two or more Directors (with such alternates, if any, as may be deemed desirable) to constitute another committee or committees for any purpose; provided, that any such other committee or committees shall have and may exercise only the power of recommending action to the Board of Directors and of carrying out and implementing any instructions or any policies, plans, programs and rules theretofore approved, authorized and adopted by the Board. Notwithstanding the foregoing or anything to the contrary contained herein, the Architectural Control Committee shall be established by Declarant and comprised of members appointed by Declarant until such time as the appointing Declarant either relinquishes such power by written notice to the Board, or no longer owns any Lot in accordance with Section 3.2 of the Declaration, as amended from time to time.

## ARTICLE IX
## BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Association Restrictions shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

## ARTICLE X
## ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association Assessments which are secured by a continuing lien upon the property against which the Assessments are made. Assessments shall be due and payable in accordance with the Declaration.

## ARTICLE XI
## CORPORATE SEAL

The Association may, but shall have no obligation to, have a seal in a form adopted by the Board.

## ARTICLE XII
## DECLARANT PROVISIONS

**Section 12.1. Conflict**. The provisions of this Article control over any provision to the contrary elsewhere in these Bylaws.

**Section 12.2. Board of Directors**. As provided in Section 4.1 of these Bylaws, **Declarant shall have the absolute right to appoint and remove members of the Board of Directors for as long as Declarant owns any Lot affected by the Declaration or as long as the Declarant Control Period is in effect, whichever occurs last.**

Until Declarant's right to appoint members of the Board of Directors terminates, the Directors appointed by Declarant need not be Owners or residents and may not be removed by the Owners. In addition, Declarant has the right to fill vacancies in any directorship vacated by a Declarant appointee.

## ARTICLE XIII
## AMENDMENTS

**Section 13.1.** These Bylaws may be amended, (i) on or before the Declarant Turnover Date, by unilateral vote or written consent of Declarant, and thereafter (ii) by a majority vote of either the Board of Directors or the Members present at meeting duly called for such purpose at which quorum is present.

**Section 13.2.** In the case of any conflict between the Certificate and these Bylaws, the Certificate shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

## ARTICLE XIV
## INDEMNIFICATION OF DIRECTORS AND OFFICERS

THE ASSOCIATION SHALL INDEMNIFY EVERY DIRECTOR AND OFFICER OF THE ASSOCIATION AGAINST, AND REIMBURSE AND ADVANCE TO EVERY DIRECTOR AND OFFICER FOR, ALL LIABILITIES, COSTS AND EXPENSES' INCURRED IN CONNECTION WITH SUCH DIRECTORSHIP OR OFFICE AND ANY ACTIONS TAKEN OR OMITTED IN SUCH CAPACITY TO THE GREATEST EXTENT PERMITTED UNDER THE TEXAS BUSINESS ORGANIZATION CODE AND ALL OTHER APPLICABLE LAWS AT THE TIME OF SUCH INDEMNIFICATION, REIMBURSEMENT OR ADVANCE PAYMENT; PROVIDED, HOWEVER, NO DIRECTOR OR OFFICER SHALL BE INDEMNIFIED FOR: (A) A BREACH OF DUTY OF LOYALTY TO THE ASSOCIATION OR ITS MEMBERS; (B) AN ACT OR OMISSION NOT IN GOOD FAITH OR THAT INVOLVES INTENTIONAL MISCONDUCT OR A KNOWING VIOLATION OF THE LAW; (C) A TRANSACTION FROM WHICH SUCH DIRECTOR OR OFFICER RECEIVED AN IMPROPER BENEFIT, WHETHER OR NOT THE BENEFIT RESULTED FROM AN ACTION TAKEN WITHIN THE SCOPE OF DIRECTORSHIP OR OFFICE; OR (D) AN ACT OR OMISSION FOR WHICH THE LIABILITY OF SUCH DIRECTOR OR OFFICER IS EXPRESSLY PROVIDED FOR BY STATUTE.

## ARTICLE XV
## MISCELLANEOUS

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

I, the undersigned, being the Secretary of LAKEPOINTE AT LAVON HOMEOWNERS ASSOCIATION, INC. does hereby certify that the foregoing are the Bylaws of said non-profit corporation, as adopted by the Association's Board of Directors pursuant to a Unanimous Consent of Directors in Lieu of Organizational Meeting of the Corporation dated to be effective as of _____ ____, 2020.

_____
Secretary

**EXHIBIT "D"**
**TO**
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LAKEPOINTE**

**Collection Policy**

**LAKEPOINTE AT LAVON HOMEOWNERS ASSOCIATION, INC.**

**Collection Policy**
*(**Cross Reference:** Master Declaration of Covenants Conditions and Restrictions for LakePointe at Lavon Homeowners Association, Inc. filed of record in the Official Public Records, Collin County, Texas)*

**WHEREAS**, the Board of Directors (the "Board") of LakePointe at Lavon Homeowners Association, Inc. (the "Association") wishes to adopt reasonable guidelines to establish a Collection Policy by which Assessments and other amounts due may be collected; and

**WHEREAS**, the Board wishes to adopt these reasonable guidelines in compliance with Section 209.0062 of the Texas Property Code; and

**WHEREAS**, the Board intends to file these guidelines with its Bylaws or as a dedicatory instrument in the real property records of each county in which the subdivision is located, in compliance with Section 209.0062 of the Texas Property Code; and

**NOW, THEREFORE, IT IS RESOLVED** that the following guidelines for the collections of assessments and other amounts due are established by the Board:

**Assessment Collection Policy (the "*Collection Policy*") for the Association:**

1. Generally. The steps and procedures contained in this Policy serve as a general outline of the Association's collection process and the Association is not bound to follow these exact procedures in every collection matter except as required by the Declaration and the laws that govern collection of assessments. The procedures below are not intended to constitute a prerequisite or condition precedent to the Association's legal ability to collect unpaid assessments and other amounts except as required by the Declaration or law.

2. Due Dates. Pursuant to the Declaration, the assessment shall be paid annually unless an alternate schedule is adopted by the Board. For assessments paid annually and unless otherwise noted, an assessment shall be deemed delinquent if not paid on or before the last day of the month in which the assessment is due. The due date and delinquency date for a Special Assessment authorized per the Declaration shall be determined by the Board of Directors. Any installment of the Annual Assessment which is not paid in full as defined herein is considered delinquent (the *Delinquency Date*") and shall be assessed late, collection, and other fees and interest as provided below or as allowed in order to collect delinquent assessments due.

3. Written Notice of Delinquency. Subsequent to an Owner becoming delinquent, and prior to referring the account to the Association's legal counsel for collection, the Association will send at least one (1) written notice of the delinquency to the Owner via certified mail (the *"Delinquency Notice"*). The Delinquency Notice shall: (I) detail each delinquent amount and the total amount owed; (ii) describe the options the Owner has to avoid having the account referred to the Association's legal counsel, including

the availability of a payment plan, and (iii) provide the Owner a period of at least thirty (30) days to cure the delinquency before further collection action is taken. Such Notice may also be referred to as a "Thirty-day Demand Letter."

4. Payment Plans. Section 209.0062 of the Texas Property Code requires that the Association adopt reasonable guidelines to establish an alternate payment schedule by which an owner may make partial payments for delinquent amounts owed to the Association in certain circumstances. The Board has adopted and recorded a policy which governs payment plans and the Association will follow the policies and procedures contained therein.

5. Interest. In the event any assessment, or any portion thereof, is not paid in full before the Delinquency Date, interest on unpaid assessments at the rate of eighteen percent (18%) per annum from the Delinquency Date (or at the rate set forth in the Declaration, if different) until paid may be charged to the Owner's account in addition to other fees and costs. Such interest, as and when it accrues hereunder, is secured by the Assessment Lien described in the Declaration, and will be subject to recovery in the manner provided herein for assessments. The Board may, in its sole discretion, waive the collection of interest; provided, however, that the waiver of interest shall not constitute a waiver of the Board's right to collect any interest or any other charges in the future.

6. Late Charges. In the event any assessment, or any portion thereof, is not paid in full by the Delinquency Date, late charges in an amount up to $25.00 shall be assessed against the Owner's account each month and every month until the assessment is paid in full. Such late charge, as and when levied, is secured by the Assessment Lien described in the Declaration, and will be subject to recovery in the manner provided herein for assessments. The Board may, in its sole discretion, waive the collection of any late charge; provided, however, that the waiver of any late charge shall not constitute a waiver of the Board's right to collect any or late charges or any other charges in the future.

7. Collection Fees. In the event any assessment, or any portion thereof, is not paid in full by the Due Date shall accrue collection fees which shall be assessed against the Owner's account each month and every month until the assessment is paid in full. *Collection fees are charges by the managing agent for the servicing of accounts, collection of delinquent accounts and for other services rendered such as payment plan processing and monitoring, credit reporting, and other collection enforcement actions and may not be waived by the Board without the consent of the managing agent.* Such collection fee, as and when levied, is secured by the Assessment Lien described in the Declaration, and will be subject to recovery in the manner provided herein for assessments. The Managing Agent has the right, but not the obligation, to bill the Association each month for such fees and should the Association terminate a Managing Agent, the Agent shall immediately collect all outstanding fees owed to it for the collection efforts performed by it on all delinquent accounts. Such collections by the Agent or payment thereof to the Agent shall not require the prior consent of the Board.

8. Handling Charges and Return Check Fees. In order to recoup for the Association, the costs incurred because of the additional administrative expenses associated with collecting delinquent assessments, collection of the following fees and charges are part of this Policy:

a. Any processing and handling charges, administrative fees, collection costs, postage, additional handling of certified or certified, return receipt mail, or other expenses incurred by the Association or Agent in connection with the collection of any assessment or related amount owing

beyond the Delinquency Date for such assessment will become due and owing by the Delinquent Owner.

b. A minimum charge of $25.00 per item or the amount charged by the Bank if greater, will become due and payable for any check or other form of payment tendered to the Association which is dishonored by the drawee, the charge being in addition to any other fee or charge which the Association is entitled to recover from an Owner in connection with collection of assessments owing with respect to such Owner's Lot.

c. Any fee or charge becoming due and payable pursuant to this Policy will be added to the amount then outstanding and is collectible to the same extent and in the same manner as the assessment, the delinquency of which gave rise to the incurrence of such charge, fee or expense.

9. Collection Agencies. In the event an account has not been paid in full following thirty (30) days from the date Delinquency Notice was mailed to the Owner, the Association's agent may refer the account to its Attorney, a collection agency for collection, including reporting delinquent account to any credit bureau or other agency providing credit histories to authorized entities. All costs incurred by the Association for using the services of any other collection service or agency, or for administering the referral and handling of the account to a collection agency by Agent, are deemed costs of collection of the Association. Such costs of collection, when incurred by the Association and added to an Owner's account, are secured by the Assessment Lien described in the Declaration, and will be subject to recovery in the manner provided herein for assessments.

10. Application of Funds Received. All monies received by the Association will be applied to the Owner's delinquency in the following order of priority:

a. First, to any delinquent assessment;

b. Second, to any current assessment;

c. Next, to any attorney's fees or third party collection costs incurred by the Association associated solely with assessments or any other charge that could provide the basis for foreclosure;

d. Next, to any attorney's fees incurred by the Association that are not subject to Subsection 10 (c) above;

e. Next, to any fines assessed by the Association; and

f. Last, to any other amount owed to the Association.

If the Owner is in default under a payment plan entered into with the Association at the time the Association receives a payment from the Owner, the Association is not required to apply the payment in the order of priority specified herein, except that a fine assessed by the Association may not be given priority over any other amount owed to the Association.

11. Ownership Records. All collection notices and communications will be directed to those persons shown by the records of the Association as being the Owner or a Lot for which assessments are due and will be sent to the most recent address of such Owner solely as reflected by the records of the Association. Any notice or communication directed to a person at an address, in both cases reflected by the records of the Association as being the Owner and address for a given Lot, will be valid and effective for all purposes pursuant to the Declaration and this Policy until such time as there is actual receipt by

the Association of written notification from the Owner of any change in the identity or status of such Owner or its address or both.

12. Notification of Owner's Representative. Where the interests of an Owner in a Lot have been handled by a representative or agent of such Owner or where an Owner has otherwise acted so as to put the Association on notice that its interest in a Lot have been and are being handled by a representative or agent, any notice or communication from the Association pursuant to this Policy will be deemed full and effective for all purposes if given to such Representative or agent.

13. Remedies and Legal Actions. If an Owner fails to cure the delinquency within the period stated in the Delinquency Notice (as provided for above), the Association may, at its discretion and when it chooses, refer the delinquency to legal counsel for the Association. Any attorney's fees and related charges incurred by virtue of legal action taken will become part of the Owner's assessment obligation and may be collected as such as provided herein. Upon direction of the Board or the Association's agent, legal counsel for the Association may pursue any and all available legal remedies with regard to the delinquencies referred to it which may include, but not limited to, Notice Letter, Notice of Lien, and Notice of Foreclosure.

i. Expedited Foreclosure Pursuant to Rules 735 & 736 of the Texas Rules of Civil Procedure. The Board may decide to foreclose its lien by exercising its power of sale granted by the Declaration. In such event, counsel may commence expedited foreclosure lawsuit under Rules 735 and 736 of the Texas Rules of Civil Procedure ("Expedited Foreclosure"). Upon receipt from the Court of an order authorizing foreclosure of the Lot, counsel may post the Lot at the Collin County Courthouse for a foreclosure sale. The Association shall have the power to bid on the Owner's Lot and improvements at foreclosure and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. The Association may institute, a personal judgment suit against the former Owner for any deficiency resulting from the Association's foreclosure of its assessment lien.

ii. Judicial Foreclosure. The Association, may file suit for judicial foreclosure ("Judicial Foreclosure") of the assessment lien, which suit may also seek a personal money judgment. Upon receipt from the Court of an order foreclosing the Association's assessment lien against the Lot, the sheriff or constable may post the Lot for sheriff's sale. The Association shall have the power to bid on the Owner's Lot and improvements at foreclosure and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Lienholder Notification. In pursuing Expedited Foreclosure or Judicial Foreclosure, the Association shall provide the 61-day notice letter to inferior lienholders pursuant to Section 209.0091 of the Texas Property Code.

d. Lawsuit for Money Judgment. The Association may file suit for a money judgment in any court of competent jurisdiction.

e. Bankruptcy. Upon notification of a petition in bankruptcy, the Association may refer the account to legal counsel.

f. Remedies Not Exclusive. All rights and remedies provided in this Policy and herein above are cumulative and not exclusive of any other rights or remedies that may be available to the Association, whether provided by law, equity, the Association's governing documents or otherwise.

14. Compromise. In order to expedite the resolution of a delinquent account, the Board may, at any time, compromise or waive the payment of interest, late charges, handling charges,

collection costs other than collection fees, unless approved by the managing agent, legal fees or any other application charge.

15. Severability and Legal Interpretation. In the event that any provision herein shall be determined by a court with jurisdiction to be invalid or unenforceable in any respect, such determination shall not affect the validity or enforceability of any other provision, and this Policy shall be enforced as if such provision did not exist. Furthermore, in the event that any provision of this Policy is deemed by a court with jurisdiction to be ambiguous or in contradiction with any law, this Policy and any such provision shall be interpreted in a manner that complies with an interpretation that is consistent with the law. In the event any provision of this Policy conflicts with the Declaration, the Declaration controls.

**IT IS FURTHER RESOLVED**, that this Policy is adopted as of the _____ day of _____, 2020, by a unanimous vote of the Board and shall remain in full force and effect until revoked, modified or amended by the Board of Directors.

LAKEPOINTE AT LAVON HOMEOWNERS ASSOCIATION, INC.

By: _____
Name: _____
Title: Secretary

**After Recording Return to:**
**Essex Association Management, LP**
**1512 Crescent Dr., Suite 112**
**Carrollton, TX 75006**

**EXHIBIT "E"**
**TO**
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LAKEPOINTE**

**E-Mail Registration Policy**

# E-MAIL REGISTRATION POLICY
# LAKEPOINTE AT LAVON HOMEOWNERS ASSOCIATION, INC.

*(**Cross Reference:** Master Declaration of Covenants Conditions and Restrictions for LakePointe at Lavon Homeowners Association, Inc. filed of record in the Official Public Records, Collin County, Texas)*

**WHEREAS**, on the _____ day of _____, 2020 the Board of Directors (the "Board") of LakePointe at Lavon Homeowners Association Inc. (the "Association") adopted reasonable guidelines to establish an E-mail Registration Policy for the Association; and

**WHEREAS**, the Board intends to file these guidelines with the Bylaws or as a dedicatory instrument in the real property records of each county in which the subdivision is located, in compliance with Section 209.005 of the Texas Property Code; and

**WHEREAS**, this policy may be amended at any time and from time to time by the Declarant during the Declarant Control Period and thereafter by the Board of Directors by Resolution as a stand-alone policy to comport with industry standards, to amend or revise provisions of the policy as may be deemed necessary and in the best interest of the Association. Any amendment or revision shall be mailed to each homeowner and a copy placed on the Association's website if applicable; and

**NOW, THEREFORE, IT IS RESOLVED** that the following guidelines for E-mail Registration are established by the Board:

Terms used but not defined in this policy will have the meaning subscribed to such terms in that certain Declaration of Covenants, Conditions and Restrictions for LakePointe at Lavon Recorded in the Official Public Records of Collin County, Texas, as the same may be amended from time to time by Resolution of the Board.

1. *Purpose.* The purpose of this Email Registration Policy is to facilitate proper notice of Board, Annual and Special meetings of members of the Association and other Association business or information pursuant to Section 209.0051(e) of the Texas Property Code.

2. *Email Registration.* Should the owner wish to receive any and all email notifications of annual and special meetings of members of the Association as well as other Association business and information as it occurs, it is the owner's sole responsibility to register his/her email address with the Association and to continue to keep the registered email address updated and current with the Association. In order to register an email address, the owner must provide their name, address, phone number and email address through the method provided on the Association's website, if any, and/or to the official contact information provided by the Association for the community manager or Agent.

3. *Failure to Register.* An owner may not receive email notification or communication of annual or special meetings of members of the Association or other Association business or information should the owner fail to register his/her email address with the Association and/or properly and timely maintain an accurate email address with the Association. Correspondence to the Association and/or Association manager from an email address or by any method other than the method described in Paragraph No. 2 above will not be considered sufficient to register such email address with the Association. Any such failure shall be upon the Owner and the Association shall bear no burden or liability if Owner fails to receive communications.

4. *Amendment.* The Association may, from time to time, by Resolution of the Board, and as a stand-alone policy without the need to amend the Bylaws, modify, amend, or supplement this Policy or any other rules regarding email registration.

This is to certify that the foregoing E-mail Registration Policy was adopted by the Board of Directors, in accordance with Section 209.0062 of the Texas Property Code.

LakePointe at Lavon Homeowners Association, Inc., a
Texas non-profit corporation

By:_____
Name:
Title: Secretary

After Recording Return to:
Essex Association Management, L.P.
1512 Crescent Drive, Suite 112
Carrollton, Texas 75006

**EXHIBIT "F"**
**TO**
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LAKEPOINTE**

**Generator Policy**

**LAKEPOINTE AT LAVON HOMEOWNERS ASSOCIATION, INC.**

**Generator Policy**
*(**Cross Reference:** Master Declaration of Covenants Conditions and Restrictions for LakePointe at Lavon to be filed in the Official Public Records, Collin County, Texas)*

**WHEREAS**, the Board of Directors (the "Board") of LakePointe at Lavon Homeowners Association, Inc. (the "Association") wishes to adopt reasonable guidelines to establish a Generator Policy; and

**WHEREAS**, the Board wishes to adopt these reasonable guidelines in compliance with Section 209.0062 of the Texas Property Code; and

**WHEREAS**, the Board intends to file these guidelines with its Bylaws or as a dedicatory instrument in the real property records of each county in which the subdivision is located, in compliance with Section 209.0062 of the Texas Property Code; and

**NOW, THEREFORE, IT IS RESOLVED** that the following guidelines are established by the Board:

**A. ARCHITECTURAL REVIEW APPROVAL REQUIRED**

As part of the installation and maintenance of a generator on an Owner's Lot, an Owner may submit plans for and install a standby electric generator **("Generator")** upon written approval by the architectural review authority under the Declaration (the **"ACC or ARC").**

**B. GENERATOR PROCEDURES AND REQUIREMENTS**

1. Application. Approval by the ACC is required prior to installing a Generator. To obtain the approval of the ACC for a Generator, the Owner shall provide the ACC with the following information: (i) the proposed site location of the Generator on the Owner's Lot; (ii) a description of the Generator, including a photograph or other accurate depiction; and (iii) the size of the Generator (the **"Generator Application").** The ACC is not responsible for: (i) errors or omissions in the Generator Application submitted to the ACC for approval; (ii) supervising installation or construction to confirm compliance with an approved Generator Application or (iii) the compliance of an approved application with Applicable Law.

2. Approval Conditions. Each Generator Application and all Generators to be installed in accordance therewith must comply with the following:

(i) The Owner must install and maintain the Generator in accordance with the manufacturer's specifications and meet all applicable governmental health, safety, electrical, and building codes.

(ii) The Owner must use a licensed contractor(s) to install all electrical, plumbing, and fuel line connections and all electrical connections must be installed in accordance with all applicable governmental health, safety, electrical, and building codes.

(iii) The Owner must install all-natural gas, diesel fuel, biodiesel fuel, and/or hydrogen fuel line connections in accordance with applicable governmental health, safety, electrical, and building codes.

(iv) The Owner must install all liquefied petroleum gas fuel line connections in accordance with the rules and standards promulgated and adopted by the Railroad Commission of Texas and other applicable governmental health, safety, electrical, and building codes.

(v) The Owner must install and maintain all non-integral standby Generator fuel tanks in compliance with applicable municipal zoning ordinances and governmental health, safety, electrical, and building codes.

(vi) The Owner must install all liquefied petroleum gas fuel line connections in accordance with the rules and standards promulgated and adopted by the Railroad Commission of Texas and other applicable governmental health, safety, electrical, and building codes.

(vii) The Owner must install and maintain all non-integral standby Generator fuel tanks in compliance with applicable municipal zoning ordinances and governmental health, safety, electrical, and building codes.

(viii) The Owner must maintain in good condition the Generator and its electrical lines and fuel lines. The Owner is responsible to repair, replace, or remove any deteriorated or unsafe component of a Generator, including electrical and fuel lines.

(ix) The Owner must screen a Generator if it is visible from the street or front of the home, located in an unfenced side or rear yard of a Lot, and is visible either from an adjoining residence or from adjoining property owned by the Association, and/or is located in a side or rear yard fenced by a wrought iron fence and is visible through the fence either from an adjoining residence or from adjoining property owned by the Association.

(x) The Owner may only perform periodic testing of the Generator consistent with the manufacturer's recommendations between the hours of 9 a.m. to 5 p.m., Monday through Friday.

(xi) No Owner shall use the Generator to generate all or substantially all of the electric power to the Owner's residence unless the utility-generated electrical power to the residence is not available or is intermittent due to causes other than nonpayment for utility service to the residence.

(xii) No Owner shall locate the Generator (i) in the front yard of a residence; or (ii) in the side yard of a residence facing a street.

(xiii) No Owner shall locate a Generator on property owned by the Association.

(xiv) No Owner shall locate a Generator on any property owned in common by members of the Association.

3. Process. Any proposal to install a Generator on property owned by the Association or property owned in common by members of the Association must be approved in advance and in writing by the Board, and the Board need not adhere to the requirements set forth in this Generator Policy when considering any such request.

4. Approval. Each Owner is advised that if the Generator Application is approved by the ACC, installation of the Generator must: (i) strictly comply with the Generator Application; (ii) commence within thirty (30) days of approval; and (iii) be diligently prosecuted to completion. If the owner fails to cause the Generator to be installed in accordance with the approved Generator Application, the ACC may require the Owner to: (a) modify the Generator Application to accurately reflect the Generator installed on the Property; or (b) remove the Generator and reinstall the Generator in accordance with the approved Generator Application.

Failure to install the Generator in accordance with the approved Generator Application or an Owner's failure to comply with the post-approval requirements constitutes a violation of the Declaration and may subject the Owner to fines and penalties up to $1,000.00. Any requirement imposed by the ACC to resubmit a Generator Application or remove and relocate a Generator in accordance with the approved Generator Application shall be at the Owner's sole cost and expense.

Executed this _____ day of _____, 2020.

LAKEPOINTE AT LAVON HOMEOWNERS ASSOCIATION, INC.
A Texas non-profit corporation

By: _____
Name:
Title: Secretary

**EXHIBIT "G"**
**TO**
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LAKEPOINTE**

**Notice and Hearing – Schedule of Fines**

**LAKEPOINTE AT LAVON HOMEOWNERS ASSOCIATION, INC.**
**Notice and Hearing; Schedule of Fines**
*(**Cross Reference:** Master Declaration of Covenants Conditions and Restrictions for LakePointe at Lavon Homeowners Association, Inc. filed of record in the Official Public Records, Collin County, Texas)*

**WHEREAS**, the Board of Directors (the "Board") of LakePointe at Lavon Homeowners Association, Inc. (**WHEREAS**, the Board of Directors (the "Board") of LakePointe at Lavon Homeowners Association, Inc. (the "Association") wishes to adopt reasonable guidelines to establish Notice and Hearing; Schedule of Fines Policy for the Association; and

**WHEREAS**, the Board wishes to adopt these reasonable guidelines in compliance with Section 209.005 of the Texas Property Code ("Section 209.005") regarding Notice and Hearing; Schedule of Fines; and

**WHEREAS**, the Board intends to file these guidelines with the Bylaws or by dedicatory instrument in the real property records of each county in which the subdivision is located, in compliance with Section 209.005 of the Texas Property Code; and

**WHEREAS**, it is hereby resolved that should this policy require amendment in any form, said amendment may be accomplished by Resolution of the Board of Directors of the LakePointe at Lavon Homeowners Association, Inc.; and

**NOW, THEREFORE, IT IS RESOLVED** that the following guidelines for Notice and Hearing; Schedule of Fines are established by the Board:

**NOTICE AND HEARING; SCHEDULE OF FINES**

Notice and Hearing.

(a) Prior to the imposition of any fine for a violation of the Declaration or the levying of any special individual assessment on an Owner, the Association will give at least one (1) notice of not less than five (5) days (unless violation is deemed an emergency, constitutes a safety or health hazard, or is a non-curable violation for the purpose of this policy, to be termed the "Excluded Violations") each to the Owner in compliance with the Declaration and/or Section 209.006 of the Texas Property Code (the "**Property Code**"), as the same may be hereafter amended. Notices as described above are not required for situations deemed to be an emergency, constitutes a safety or health hazard or poses any kind of health or safety issue, or deemed a non-curable violation by the Board. Notice(s), as a general rule shall follow the schedule below notwithstanding, it is to be understood this is a guide and in no way prevents the Association or its Managing Agent from deviating from this schedule when it is deemed in the best interest of the Association or its Residents to do so:

At times a violation may fall under what this policy shall refer to as "Excluded Violations" which shall be violations that fall under the following: (i) situations deemed to be an

emergency, constitutes a safety or health hazard or poses any kind of health or safety issue, (ii) non-curable violations, and (iii) Self-Help violations. Such a violation is not subject to the same delivery methods as outlined below especially when circumstances warrant immediate action to cure or abate. Authorized or alternative delivery methods for "Excluded Violations" are: e-mail, hand delivery, or posting to the door of the residence.

Standard delivery methods except otherwise noted in this policy shall be:

(i) First Notice (subject to the exceptions above) shall be delivered by regular U.S. mail.

(ii) Second Notice **(Fine Warning Notice)** shall be delivered by certified and regular U.S. mail.

(iii) Notice of Fine Levied **(Notice of Fine)** shall be delivered by certified and regular U.S. mail.

The notice must describe the violation or property damage that is the basis for the fine for such violation, and state any amount due the Association from the Owner.

The notice must inform the Owner that the Owner is entitled to a reasonable time to cure the violation and avoid the fine and that the Owner may request a hearing as outlined in the Declaration and Section 209.007 of the Texas Property Code on or before the 30th day after the Owner receives the notice.

(b) In compliance with Section 209.007 of the Texas Property Code, if the Owner submits a written request for a hearing, the Association shall hold a hearing not later than the thirtieth (30th) day after the date the Board receives the Owner's request, and shall notify the Owner of the date, time and place of the hearing not later than the tenth (10th) day before the date of the hearing. If the Owner is being fined, upon request of a hearing the fines shall be suspended pending the outcome of the hearing. The Hearing Committee or the Board shall be responsible for notifying the Managing Agent of any instructions after a decision is rendered.

(c) The Board or the Owner may request a postponement, and, if requested, a postponement shall be granted for a period of not more than ten (10) days unless the Parties mutually agree to extend the postponement out further. Additional postponements may be granted by agreement of the parties. If the hearing is to be held before a committee appointed by the Board, the notice shall state that the Owner has the right to appeal the committee's decision to the Board by written notice to the Board. Online and/or telephonic hearings are allowed.

(d) Provided that such Owner has not requested a hearing in accordance with the above and the violation has not been cured, then the Association shall continue to levy fines per the schedule below, notwithstanding, the schedule provided is a guide and does not constitute a hard and fast rule as the amount of fine a Board can levy for an Owner's non-compliance. Some violations, depending upon the severity or repetition, may warrant more stringent fine enforcement or may warrant a one-time fine in lieu of fining in increments. The amount and frequency in which a fine is levied is at the sole discretion of the Board. The Association is not entitled to collect a fine from an Owner to whom it has not given notice and an opportunity to be heard, pursuant to Section 209.006 and Section 209.007 of the Texas Property Code.

Any fine levied shall be reflected on the Owner's periodic statements of account or delinquency notices. The fine amounts set forth below are suggested fine amounts. The Board may deviate from the fine schedule when, in the Board's sole discretion, it is deemed appropriate to do so. The Board may elect to pursue such additional remedies at any time in accordance with applicable law.

**FINES:**

| **Violation:** | **Fine Amount:** |
|---|---|
| 1st Fine Levied – | **$50.00** |
| 2nd Fine Levied – | **$100.00** |
| 3rd Fine Levied - | **$200.00** |
| 4th Fine & Beyond | **Fine will increase an additional $100.00 every week until Owner cures the violation** |

Note: Once the maximum fine amount is reached and the violation has not been cured, the fine process will continue at the rate of $100.00 per week until the violation is cured. The Association shall send one (1) additional notice notifying the Owner fines will continue until the violation is cured and thereafter, the Association will not be required to notify the Owner further and may continue to fine until the violation is cured. The Board, at all times, shall have the authority to determine if self-help or other enforcement actions become necessary and the Board may move from normal enforcement procedures to another when or if the matter becomes necessary such as, but not limited to, a violation becoming a safety hazard or creating any form of unsafe environment or continued and/or chronic refusal of an Owner to address a violation on his/her property. The Board is authorized to take actions, including suit in a court of law as may be applicable, to encourage the abatement of a violation and/or encourage compliance by an Owner, or to recoup monies the Association paid to abate a violation when the Owner failed or refused to do so, regardless of the reasoning or circumstances.

This policy may be amended at any time and from time to time by the Declarant during the Declarant Control Period and thereafter by the Board of Directors by Resolution as a stand-alone document. The Board may amend, revise provisions of the policy, or rescind all or any part of the policy, as may be deemed necessary and in the best interest of the Association. Any amendment to the policy shall be mailed to each homeowner and a copy placed on the Association's website if applicable.

This is to certify that the foregoing Notice and Hearing – Schedule of Fines was adopted by the Board of Directors, in accordance with Section 209.0062 of the Texas Property Code.

LakePointe at Lavon Homeowners Association, Inc., a Texas non-profit corporation

By:_____
Name:
Title: Secretary

After Recording Return to:
Essex Association Management, L.P.
1512 Crescent Drive, Suite 112
Carrollton, Texas 75006

**EXHIBIT "H"**
**TO**
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LAKEPOINTE**

**Records Production and Coping Policy**

## LAKEPOINTE AT LAVON HOMEOWNERS ASSOCIATION, INC.

**Records Production, Copying and Retention Policy**
*(**Cross Reference:** Master Declaration of Covenants Conditions and Restrictions for LakePointe at Lavon Homeowners Association, Inc. filed of record in the Official Public Records, Collin County, Texas)*

**WHEREAS**, the Board of Directors (the "Board") of LakePointe at Lavon Homeowners Association, Inc. (the "Association") wishes to adopt reasonable guidelines to establish Records Production, Copying and Retention Policy for the Association; and

**WHEREAS**, the Board wishes to adopt these reasonable guidelines in compliance with Section 209.005 of the Texas Property Code ("Section 209.005") regarding Owner access to Association documents and records ("Records"); and

**WHEREAS**, the Board intends to file these guidelines with the Bylaws or by dedicatory instrument in the real property records of each county in which the subdivision is located, in compliance with Section 209.005 of the Texas Property Code; and

**WHEREAS**, it is hereby resolved that should this policy require amendment in any form, said amendment may be accomplished by Resolution of the Board of Directors of the LakePointe at Lavon Homeowners Association, Inc.; and

**NOW, THEREFORE, IT IS RESOLVED** that the following guidelines for Records Production, Copying, and Retention are established by the Board:

1. Association Records shall be reasonably available to every owner. An owner may also provide access to Records to any other person (such as an attorney, CPA or agent) they designate in writing as their proxy for this purpose. To ensure a written proxy is actually from the owner, the owner must include a copy of his/her photo ID or have the proxy notarized.
2. An owner, or their proxy as described in section 1, must submit a written request for access to or copies of Records. Only one (1) election for review may be made and the letter must:
   a. be sent by certified mail to the Association's address as reflected in its most recent Management Certificate filed in the County public records; and
   b. contain sufficient detail to identify the specific Records being requested; and
   c. indicate whether the owner or proxy would like to inspect the Records before possibly obtaining copies or if the specified Records should be forwarded. If forwarded, the letter must indicate the format, delivery method and address:
      i. format: electronic files, compact disk or paper copies
      ii. delivery method: email, certified mail or pick-up

3. Within ten (10) business days of receipt of the request specified in section 2 above, the

Association shall provide:

a. the requested Records, if copies were requested and any required advance payment had been made; or
b. a written notice that the Records are available and offer dates and times when the Records may be inspected by the owner or their proxy during normal business hours at the office of the Association or its Managing Agent; or
c. a written notice that the requested Records are available for delivery once a payment of the cost to produce the records is made and stating the cost thereof; or
d. a written notice that a request for delivery does not contain sufficient information to specify the Records desired, the format, the delivery method and the delivery address; or
e. a written notice that the requested Records cannot be produced within ten (10) business days but will be available within fifteen (15) additional business days from the date of the notice and payment of the cost to produce the records is made and stating the cost thereof.

4. The following Association Records are not available for inspection by owners or their proxies:
   a. the financial records associated with an individual owner; and
   b. deed restriction violation details for an individual owner; and
   c. personal information, including contact information other than an address for an individual owner; and
   d. attorney files and records in the possession of the attorney; and
   e. attorney-client privileged information in the possession of the Association; and
   f. any records for which the Association or the managing agent, for any reason, do not have the requested records within the records of the Association.

   The information in a, b and c above will be released if the Association receives express written approval from the owner whose records are the subject of the request for inspection.

5. Association Records may be maintained in paper format or in an electronic format. If a request is made to inspect Records and certain Records are maintained in electronic format, the owner or their proxy will be given access to equipment to view the electronic records. Association shall not be required to transfer such electronic records to paper format unless the owner or their proxy agrees to pay the cost of producing such copies.

6. If an owner or their proxy inspecting Records requests copies of certain Records during the inspection, Association shall provide them promptly, if possible, but no later than ten (10) business days after the inspection or payment of costs, whichever is later.

7. The owner is responsible for all costs associated with a request under this Policy, including but not limited to copies, postage, supplies, labor, overhead and third party fees (such as archive document retrieval fees from off-site storage locations) as listed below: (Please go to the Attorney General web-site for current charges) https://texasattorneygeneral.gov/og/charges-for-public-information

8. Any costs associated with a Records request must be paid in advance of delivery by the owner or their proxy. An owner who makes a request for Records and subsequently declines to accept delivery will be liable for payment of all costs under this Policy.

9. On a case-by-case basis, in the absolute discretion of the Association, and with concurrence of the owner, the Association may agree to invoice the cost of the Records request to the owner's account. Owner agrees to pay the total amount invoiced within thirty (30) days after the date a statement is mailed to the Owner. Any unpaid balance will accrue interest as an assessment as allowed under the "Master Declaration of Covenants, Conditions, and Restrictions for LakePointe at Lavon" recorded or to be recorded in the Official Public Records of Collin County, Texas, as the same may be amended from time to time.

10. On a case-by-case basis where an owner request for Records is deemed to be minimal, the Association or its managing agent reserves the right to waive notice under section 2 and/or fees under section 4.

11. All costs associated with fulfilling the request under this Policy will be paid to the Association or in the event a managing agent performed the services, directly to the Managing Agent.

## RECORD RETENTION POLICY

The Record Retention Policy of LakePointe at Lavon ensures that necessary records and documents are adequately protected and maintained and that records that are no longer needed or are of no value are discarded at the proper time.

**1. Policy.** This Policy represents the Association's policy regarding the retention and disposal of records and the retention and disposal of electronic documents.

**2. Administration.** The Record Retention Schedule herein is approved as the initial maintenance, retention and disposal schedule for physical records of the Association and the retention and disposal of electronic documents. The Board of the Association ("Administrator") is in charge of administering instructions of this Policy and the implementation of processes and procedures to ensure that the Record Retention Schedule is followed. The Managing Agent is also authorized to comply with the Records Retention Schedule upon approval of the Board and from time to time, to ensure the Association is in compliance with local, state and federal laws and to help monitor local, state and federal laws affecting record retention; and to annually review the record retention and disposal program disposing of those documents whose age has met or passed the time limit for retention by the Association.

**3. Suspension of Record Disposal In Event of Litigation or Claims.** In the event the Association is served with any subpoena or request for documents or any employee becomes aware of a governmental investigation or audit concerning the Association or the commencement of any litigation against or concerning the Association, such employee shall inform the Administrator and any further disposal of documents shall be suspended until such time as the Administrator, with the advice of counsel, determines otherwise. The Administrator will take such steps as is necessary to promptly inform all staff of any suspension in the further disposal of documents.

**4. Applicability.** This Policy applies to certain physical records generated in the course of the Association's operation, including both original documents and reproductions. It also applies to the electronic documents described above.

(Record Retention Schedule begins on next page)

## Record Retention Schedule

The Record Retention Schedule is organized as follows:

**SECTION TOPIC**

A. Accounting and Finance

B. Contracts

C. Corporate Records

D. Electronic Documents

E. Payroll Documents

F. Personnel Records

G. Property Records

H. Tax Records

The following are the Association's retention periods. These apply to both physical and electronic documents. If no physical copy of an electronic document is retained, the means to 'read' the electronic document must also be retained. If a record does not fall within the following categories, Board approval must be obtained to dispose of such record.

### A. ACCOUNTING AND FINANCE

| Record Type | Retention Period |
|---|---|
| Accounts Payable & Accounts Receivable ledgers and schedules | 7 years |
| Annual Audit Reports and Financial Statements | Permanent |
| Annual Audit Records, including work papers and other documents that relate to the audit | 7 years after completion of audit |
| Bank Statements and Canceled Checks | 7 years 7 |
| Employee Expense Reports | years |
| General Ledgers | Permanent |
| Notes Receivable ledgers and schedules | 7 years |
| Investment Records | 7 years after sale of investment |

## B. CONTRACTS

| Record Type | Retention Period |
|---|---|
| Contracts and Related Correspondence (including any proposal that resulted in the contract and all other supportive documentation) | 4 years after expiration or termination |

## C. ASSOCIATION RECORDS

| Record Type | Retention Period |
|---|---|
| Corporate Records (unless otherwise specifically addressed in this Policy - Governing Documents, Dedicatory Instruments, minute books, signed minutes of the Board and all committees, corporate seals, annual corporate reports) | Permanent |
| Licenses and Permits | Permanent |
| Account records of current owners | 5 years |

## D. ELECTRONIC DOCUMENTS

1. **Electronic Mail:** Not all email needs to be retained, depending on the subject matter. Internal E-mails of the Managing Agent not addressed to the Board or any member of the Association may be excluded.

   - E-mails from internal or external sources containing Association related business—is to be deleted after 12 months.
   - Staff will strive to keep all but an insignificant minority of their e-mail related to business issues.
   - The Corporation will archive e-mail for six months after the staff has deleted it, after which time the e-mail will be permanently deleted.
   - The Corporation's business-related email may be downloaded to a service center or user directory on the server, when determined by the Board.
   - Staff will not store or transfer the Corporation's related e-mail onto non-work-related computers except as necessary or appropriate for the Corporation's purposes or in the event of a catastrophic event which forces staff to work from home and from home office systems.
   - Staff will take care not to send confidential/proprietary information to outside sources unless instructed to do so by the Declarant or the Board.

2. **Electronic Documents:** Retention depends on the subject matter and follows D.1 above.

3. **Web Page Files: Internet Cookies**

   - All workstations: Internet Explorer should be scheduled to delete Internet cookies once per month if not more often.

## E. PAYROLL DOCUMENTS

| Record Type | Retention Period |
|---|---|
| Employee Deduction Authorizations | 4 years after termination |
| Payroll Deductions | Termination + 7 years |
| W-2 and W-4 Forms | Termination + 7 years |
| Garnishments, Assignments, Attachments | Termination + 7 years |
| Payroll Registers (gross and net) | 7 years |
| Time Cards/Sheets | 2 years |
| Unclaimed Wage Records | 6 years |

## F. PERSONNEL RECORDS

| Record Type | Retention Period |
|---|---|
| EEO- I /EEO-2 - Employer Information Reports | 2 years after termination or filing (whichever is longer) |
| Employee Earnings Records | Separation + 7 years |
| Employee Handbooks | 1 copy kept permanently |
| Employee Personnel Records (including individual attendance records, application forms, job or status change records, performance evaluations, termination papers, withholding information, garnishments, test results, training and qualification records) | 6 years after separation |
| Employment Contracts — Individual | 7 years after separation |
| Employment Records - Correspondence with Employment Agencies and Advertisements for Job Openings | 3 years from date of hiring decision |
| Employment Records - All Non-Hired Applicants (including all applications and resumes - whether solicited or unsolicited, results of post-offer, pre-employment physicals, results of background investigations, if any, related correspondence) | 2-4 years (4 years if file contains any correspondence which might be construed as an offer) |
| Job Descriptions | 3 years after |

| Record Type | Retention Period |
|---|---|
| Personnel Count Records | 3 years |
| Forms 1-9 | 3 years after hiring, or 1 year after separation if later |

## G. PROPERTY RECORDS

| Record Type | Retention Period |
|---|---|
| Correspondence, Property Deeds, Assessments, Licenses, Rights of Way | Permanent |
| Property Insurance Policies | Permanent |

## H. TAX RECORDS

| Record Type | Retention Period |
|---|---|
| Tax-Exemption Documents and Related Correspondence | Permanent |
| IRS Rulings | Permanent |
| Tax Bills, Receipts, Statements | 7 years |
| Tax Returns - Income, Franchise, Property | Permanent |
| Tax Workpaper Packages - Originals | 7 years |
| Annual Information Returns - Federal and State | Permanent |
| IRS or other Government Audit Records | Permanent |
| All other Tax Records | 7 years |

This is to certify that the foregoing Records Production, Copying and Retention Policy was adopted by the Board of Directors on the _____ day of _____, 2020, in accordance with Section 209.005 of the Texas Property Code, and supersedes any policy regarding records production which may have previously been in effect.

LakePointe at Lavon Homeowners Association, Inc., a Texas non-profit corporation

By:_____
Name:
Title: Secretary

AFTER RECORDING RETURN TO:
Essex Association Management, L.P.
1512 Crescent Drive, Suite 112
Carrollton, Texas 75006

**EXHIBIT "I"**
**TO**
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LAKEPOINTE**

**Alternative Payment Schedule Policy**

**LAKEPOINTE AT LAVON HOMEOWNERS ASSOCIATION, INC.**

**Alternative Payment Schedule Policy**
*(**Cross Reference:** Master Declaration of Covenants Conditions and Restrictions for LakePointe at Lavon Homeowners Association, Inc. filed of record in the Official Public Records, Collin County, Texas)*

**WHEREAS**, the Board of Directors (the "Board") of LakePointe at Lavon Homeowners Association, Inc. (the "Association") wishes to adopt reasonable guidelines to establish Alternative Payment Schedule Policy for the Association; and

**WHEREAS**, the Board wishes to adopt these reasonable guidelines in compliance with Section 209.005 of the Texas Property Code ("Section 209.005") regarding Alternative Payment Schedule; and

**WHEREAS**, the Board intends to file these guidelines with the Bylaws or by dedicatory instrument in the real property records of each county in which the subdivision is located, in compliance with Section 209.005 of the Texas Property Code; and

**WHEREAS**, it is hereby resolved that should this policy require amendment in any form, said amendment may be accomplished by Resolution of the Board of Directors of the LakePointe at Lavon Homeowners Association, Inc.; and

**NOW, THEREFORE, IT IS RESOLVED** that the following guidelines for Alternate Payment Schedule Policy are established by the Board:

Upon the request of a delinquent owner, the Association shall enter into an alternative payment schedule with such owner, subject to the following guidelines:

a. An Alternative Payment Schedule is only available to owners who have delinquent regular assessments, special assessments or any other amount owed to the Association.

b. An Alternative Payment Schedule will not be made available in the following cases: (1) to owners who have failed to honor the terms of a previous Alternative Payment Schedule during the two years following the owner's default of such previous Alternative Payment Schedule; (2) to owners who have failed to request an Alternative Payment Schedule prior to the 30 day deadline to cure the delinquency as set forth in the Association's letter sent pursuant to Tex. Prop. Code § 209.0064(b); and/or (3) to owners who have entered into an Alternative Payment Schedule within the previous 12 months. Notwithstanding the foregoing, the Board has discretion to allow any owner to enter into an Alternative Payment Schedule.

c. During the course of an Alternative Payment Schedule, additional monetary penalties such as late and collection fees shall not be charged against an owner so long as the owner timely performs all obligations under the Alternative Payment Schedule and does not default. However, the Association or its Managing Agent may charge reasonable costs for administering the Alternative Payment Schedule ("Administrative Costs") and, if interest is allowed under the "Master Declaration of Covenants, Conditions, and Restrictions for "LakePointe at Lavon" recorded or to be recorded in the Official Public Records of Collin County, Texas, as the same may be amended from time to time (the "Declaration"), then interest will continue to accrue during the term of the Alternative Payment Schedule. The Association may provide an estimate of the amount of interest that will accrue during the term of the Alternative Payment Schedule.

d. The total of all proposed payments in an Alternative Payment Schedule must equal the sum of the current delinquent balance, the estimated interest, and any Administrative Costs; and may include any assessments that will accrue during the term of the Payment Plan.

e. All payments under an Alternative Payment Schedule shall be due and tendered to the Association by the dates specified in the Alternative Payment Schedule, and shall be made by cashier's checks or money orders unless the Association allows online payments by the Owner.

f. The minimum term for an Alternative Payment Schedule is 3 months from the date of the owner's request for an Alternative Payment Schedule. The Association is not required to allow an Alternative Payment Schedule for any amount that extends more than 18 months from the date of the owner's request for an Alternative Payment Plan.

g. Any owner may submit to the Board a request for an Alternative Payment Schedule that does not meet the foregoing guidelines, along with any other information he/she believes the Board should consider along with such request (e.g. evidence of financial hardship). The Board, in its sole discretion, may approve or disapprove such a request for a non-conforming Alternative Payment Schedule. An owner who is not eligible for an Alternative Payment Schedule may still request an Alternative Payment Schedule, and the Board, in its sole discretion, may accept or reject such a request.

h. Default

1. The following shall result in an immediate default of an Alternative Payment Schedule:

i. The owner's failure to timely tender and deliver any payment when due under the Alternative Payment Schedule;

ii. The owner's failure to tender any payment in the full amount and form (e.g., cashier's check or money order or online payment) as specified in the Alternative Payment Schedule; or

iii. The owner's failure to timely comply with any other requirement or obligation set forth in the Alternative Payment Plan.

iv. The owner's failure to pay all future assessments or special assessments on time which shall become due after the date in which the payment plan is initiated.

2. Any owner who defaults under an Alternative Payment Schedule shall remain in default until his/her entire account balance is brought current.

3. The Association is not required to provide notice of any default.

4. Owners are not entitled to any opportunity to cure a default.

5. While an owner is in default under an Alternative Payment Schedule, the owner's payments need not be applied to the owner's debt in the order of priority set forth in Tex. Prop. Code § 209.0063(a). But, in applying a payment made while the owner is in default, a fine assessed by the Association may not be given priority over any other amount owed to the Association.

6. The failure by the Association to exercise any rights or options shall not constitute a waiver thereof or the waiver of the right to exercise such right or option in the future.

i. All other terms of an Alternative Payment Schedule are at the discretion of the Board of Directors.

This is to certify that the foregoing Alternative Payment Schedule Guidelines for Certain Assessments was adopted by the Board of Directors on the _____ day of _____, 2020, in accordance with Section 209.0062 of the Texas Property Code.

LakePointe at Lavon Homeowners Association, Inc., a Texas non-profit corporation

By:_____
Name:
Title: Secretary

After Recording Return to:
Essex Association Management, L.P.
1512 Crescent Drive, Suite 112
Carrollton, Texas 75006

Filed and Recorded
Official Public Records
Stacey Kemp, County Clerk
Collin County, TEXAS
08/07/2020 12:11:03 PM
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