

  
MARY LOUISE NICHOLSON  
COUNTY CLERK

**DECLARATION OF COVENANTS,  
RESTRICTIONS AND EASEMENTS FOR FLEMING POINTE**

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR FLEMING POINTE (this "Declaration") is made effective as of the 6th day of April, 2023, by BEATEN PATH DEVELOPMENT II-LAKESIDE, LLC, a Texas limited liability (hereinafter referred to as "Declarant").

**BACKGROUND STATEMENT**

A. Declarant is the owner of certain real property in Tarrant County, Texas (the "Property"), which is more particularly described and depicted on Exhibit A attached hereto.

B. Declarant intends to develop on the Property a residential development to be known as "**FLEMING POINTE**" (hereinafter referred to as the "Development").

C. Declarant intends by this Declaration to impose mutually beneficial restrictions under a general plan of development for the benefit and protection of all owners of property within the Development. Declarant also desires to establish a method for the administration, maintenance, preservation, use and enjoyment of the Property.

D. Declarant has caused the Fleming Pointe Homeowners Association, Inc., a Texas non-profit corporation (the "Association"), to be formed to manage the Development and to perform certain functions for the common good and general welfare of the Owners of the Lots and Property.

E. The Declarant hereby declares that all of the Property (as hereinafter defined) is held, sold and conveyed subject to this Declaration to enhance and protect the value, desirability and attractiveness of the Property. The covenants, restrictions and easements set forth herein run with the Property, are binding on all parties having or acquiring any right, title or interest in the Property, and subject to the limitations herein provided, inure to the benefit of each Owner, and its heirs, grantees, distributees, legal representatives, successors, and assigns and to the benefit of the Association. Notwithstanding any provision herein, the rights of Declarant as provided herein shall not run with the Property, but instead may only be transferred or assigned by Declarant as provided herein.

EACH OWNER SHALL OBTAIN AND BECOME THOROUGHLY FAMILIAR WITH (AND BY ACCEPTANCE OF A LOT SHALL BE DEEMED TO HAVE BECOME THOROUGHLY FAMILIAR WITH) THESE DECLARATIONS AND THE DESIGN GUIDELINES PRIOR TO ACQUISITION OF ANY LOT. BY ACCEPTANCE

OF A LOT, EACH OWNER IS DEEMED TO HAVE AGREED TO BE BOUND BY THESE DECLARATIONS.

ARTICLE I  
DEFINITIONS

The following words, when used in this Declaration of Covenants, Restrictions and Easements, shall have the following meanings:

"Annual Assessment" has the meaning given it in Section 5.04(a).

"Annual Operating Budget" shall mean an aggregate estimated monetary amount necessary to operate the Association and to maintain the Common Property

"Assessment" means an Annual Assessment or a Special Assessment.

"Architectural Control Committee" has the meaning given it in Article VII.

"Association" means Fleming Pointe Homeowners Association, Inc., a Texas non-profit corporation organized under Chapter 22 of the Texas Business Organizations Code.

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

"Bylaws" mean the Bylaws of the Association.

"Commencement Date" means the date on which the first Lot (as hereinafter defined) is sold to a third party other than Declarant.

"Committee" means the Architectural Control Committee.

"Common Property" means areas of real property within the Development managed or maintained by the Association, which may be improved or designated to be improved with items including but not limited to Structures or infrastructures such as pathways, roadways, streets and Common Personal Property.

"Common Personal Property" means all personal property not owned by an Owner and located on Common Property or a within an easement on a Lot, managed or maintained by the Association and including but not limited to items such as signs, lighting, entry features, beach cabanas, picnic tables, day docks, restrooms, rest areas, drainage facilities, retaining walls, and bar ditches.

**"Declarant"** means BEATEN PATH DEVELOPMENT II-LAKESIDE, LLC, a Texas limited liability company, and its successors and assigns.

**"Declaration"** means this Declaration of Covenants, Restrictions and Easements.

**"Dedictory Instrument"** with respect to the Property has the meaning set forth in Section 209.002 of the Texas Property Code.

**"Design Standards"** means all Restrictions and standards applicable to any Residence or Structure on a Lot pursuant to this Declaration and the Design Guidelines.

**"Design Guidelines"** means the Fleming Pointe Design Guidelines described in Section 6.01.

**"Development"** means the residential development known as FLEMING POINTE developed or to be developed on the Property as set forth in this Declaration and any additions made pursuant to Article II.

**"Development Period"** shall mean the earlier of (a) a period equal to twenty (20) years after the date this Declaration is recorded, (b) the date Declarant no longer owns any portion of the Property (including any additional property which may be annexed into the scheme of this Declaration pursuant to Section 2.02), or (c) the date Declarant gives written notice to the Association that the Development Period has ended.

**"Development Period Declarant Rights"** shall mean the rights of the Declarant as further set forth herein, which include but are not limited to adding or removing land or personal property from the Development, facilitating the development, construction, and marketing of the Development, directing the size, shape and composition of the Lots and Common Property within the Development, and appointing and removing Directors.

**"Development-Wide Standard"** shall mean the standard of conduct, maintenance or other activity generally prevailing in the Development. Such standard may be more specifically determined by the Board and by committees required or permitted to be established pursuant to the Declaration and the Certificate of Formation and Bylaws of the Association. Such determination, however, must be consistent with the Development-Wide Standard originally established by the Declarant and with this Declaration.

**"Division"** shall mean a grouping of Lots with particular common characteristics, including but not limited to area, required size of residential structure, source of water, lake frontage, building lines and landscaping.

"Governing Authority" has the meaning given it in the Section 3.08 hereof.

"Institutional Mortgage" means any bona-fide mortgage, lien or security interest held by a bank, trust company, insurance company, savings and loan association or other recognized lending institution, or by an institutional or governmental purchaser of mortgage loans in the secondary market, such as the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or their successors, or guaranteed or subsidized by the FHA and/or VA.

"Lot" means any designated parcel of land located on the Property that is established by a subdivision plat or re-plat recorded in the Plat Records of Tarrant County but shall not include any Common Property owned by the Association.

"Member" means any member of the Association, including Class A Members and the Class B Member.

"Membership" means the collective total of all members of the Association.

"Occupant" means any person occupying all or any portion of a Residence located within the Development for any period of time, regardless of whether such Person is a tenant, guest, or the Owner of the Residence.

"Owner" means the record owner, whether one or more persons or entities, of a fee simple title to any Lot.

"Property" means that certain real property described and depicted on Exhibit A (a final plat of which has been or will be recorded in the Plat Records of Tarrant County, Texas), and any additions thereto, as are subject to this Declaration, or any amendment or supplement thereto, prepared and filed of record pursuant to the provisions of Article II hereof.

"Residence" means a Structure situated upon a Lot intended for independent use and occupancy as a residence for a single family, including porches (enclosed or unenclosed), attached garages and attached guest quarters, as well as breezeways and every integral part thereof, including but not limited to balconies, porte cocheres and architectural appurtenances such as cornices, bay windows, and the like.

"Restrictions" means all covenants, restrictions, easements, charges, liens and other obligations created or imposed by this Declaration.

"Retaining Wall Lots" means those Lots for which a perimeter is established by a retaining wall constructed by or on behalf of the Declarant.

“Right of Abatement” has the meaning given it in Section 10.02.

“Special Assessment” has the meaning given it in Section 5.05.

“Structure” means anything or object the placement of which upon any Lot or the Common Property may affect the function or appearance of such Lot or the Common Property, including by way of illustration and not limitation, any building or part thereof, garage, porch, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, dock, fence, curbing, paving, wall, tree, shrub (and all other forms of landscaping), sign, signboard, or any other temporary or permanent improvement to such Lot or Common Property.

“Water Run-off Property” means those areas within the Property that are designated or easily identified by natural use or intentional use for collecting and managing surface water run-off across the Property and to and from the Property and adjacent other real property, and may be in the form of natural or artificial ponds, creeks, streams, waterways, ditches, washes, culverts or drainage channels and all improvements thereto.

## ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION

2.01 Property. The Property is located in Tarrant County, Texas, and is more particularly described on Exhibit A attached hereto and incorporated herein by reference for all purposes.

2.02 Addition to Property. Additional land(s) may become subject to this Declaration in any of the following manners:

(a) Declarant may (without the joinder and consent of the Association or any person or entity) add or annex additional real property to the scheme of this Declaration by filing of record on one or more occasions a Supplementary Declaration of Covenants, Restrictions and Easements for Fleming Pointe, which shall extend the scheme of the covenants, conditions, easements and restrictions of this Declaration to such property. Each supplementary declaration may contain such complementary additions and modifications of the Covenants, Restrictions and Easements contained in this Declaration as may be necessary to reflect the different character and development requirements, if any, of the added properties and as are not inconsistent with the concept of this Declaration.

(b) Any additions made pursuant to this Section 2.02, when made, shall automatically extend the jurisdiction, functions, duties and membership of the Association to the properties added.

(c) Declarant shall have the right and option (without the joinder, approval or consent of such association) to cause the Association to merge or consolidate with any similar association then having jurisdiction over real property located (in whole or in part) within one-half (1/2) mile of any real property then subject to the jurisdiction of this Association. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Property together with the covenants, conditions and restrictions established upon any other properties as one scheme.

2.03 Removal of Property. During the Development Period, Declarant may remove portions of the Property from the scheme of this Declaration by filing of record a release describing the portion of the Property which has been released.

2.04 Retention of Oil, Gas and Mineral Rights. Declarant reserves all oil, gas, and other mineral rights, if any, to any Lots or Common Property conveyed by it.

2.05 Declarant's Rights During Development Period. During the Development Period, the Declarant shall have all rights with respect to the development of the Property that do not violate applicable laws, whether or not expressly set forth in this Declaration, including but not limited to those expressly defined as a Development Period Declarant Rights.

### ARTICLE III COMMON PROPERTY

#### 3.01 Conveyance of Common Property and Common Personal Property:

(a) The Declarant may from time to time grant and convey to the Association any portions of the Common Property or any Common Personal Property. In addition, the Declarant may from time to time grant and convey any leasehold interests and easements to the Association that the Declarant deems necessary to enhance the Development. The Association shall accept these properties and the responsibility for managing and maintaining them, and, by acceptance thereof, the Association agrees to be

bound by all of the terms and conditions of the instruments conveying such interests and by the provisions of these Declarations.

(b) It is contemplated by the Declarant that the Declarant will convey to the Association as Common Property, the areas designated as common property or common areas as shown on the plat of the Property recorded or to be recorded in the Plat Records of Tarrant County, Texas, as well as other common property in the event additional property is added to the scheme of this Declaration under Section 2.02. The Declarant may, at Declarant's sole discretion, modify, alter, increase, reduce and otherwise change such common property or common areas prior to granting and conveying same to the Association.

(c) In addition to the property described in subsections (a) and (b) of this Section 3.01, the Declarant may convey to the Association an easement or easements as may be necessary to designate Water Run-Off Property and to allow the Association access to ground water and for drilling a well or wells for use in connection with Common Property and any facilities thereon, in accordance with this Section 3.01 and such other real and personal property as the Declarant may determine, at Declarant's sole discretion, to be necessary or proper for the completion of the Development.

(d) Notwithstanding any legal presumption or provision hereof to the contrary, the fee simple title to, and all rights in any portion of, the Property owned by the Declarant and designated as Common Property or designated for use by the Owners shall be reserved to the Declarant until such time as the same shall be conveyed to the Association or to any municipality or other government body, agency or authority.

(e) Additionally, Declarant may retain the oil, gas, and other mineral rights to any Common Property conveyed to the Association.

3.02 Rights to Use and Enjoy Common Property. Subject to the provisions hereof, every Owner of a Residence shall have a right to use and enjoy the Common Property, which right shall be appurtenant to and shall pass with the title to every Lot upon transfer. No Owner shall do any act which interferes with the free use and enjoyment of the Common Property by all other Owners. Furthermore, the right is subject to (i) established written rules and regulations regarding access to and recreational use of all or parts of the Common Property; (ii) established written rules and regulations regarding restrictions on access to parts of the Common Property not intended for recreational use; and (iii) suspension by the Association of those rights as provided in Sections 4.04(s) and 4.05.

3.03 Rights of the Association. The rights and privileges conferred in Section 3.02 hereof shall be subject to the right and obligations of the Association set forth or referenced in Article IV and to all of the other provisions of this Declaration. The

Association is designated as a property owners' association as that term is defined in Chapter 209 of the Texas Property Code and shall have discretionary authority to enforce the Restrictions contained herein and to regulate the Development and use of its amenities. The Association has the authority to collect Assessments for itself.

3.04 Types of Common Property. At the time of the conveyance of any real property or grant of easement by the Declarant to the Association, the Declarant may designate in the deed of conveyance or easement that such real property is to be Common Property, and further may designate in the deed of conveyance or easement the specific or general purpose or purposes for which such real property or any portion thereof may be used, and in such event, such real property or portion thereof shall not, without the consent of the Declarant during the Development Period or, thereafter, a three-quarters (3/4) vote of the Members, be used for any different purpose or purposes.

3.05 Delegations of Use. Any Owner may delegate to the members of his family or his Occupants, in accordance with the Dedicatory Instruments, his right to use and enjoy the Common Property.

3.06 Maintenance. The Association shall maintain and keep in good repair the Common Property and the Common Personal Property as hereinafter set forth; provided, however, the Association may choose not to replace any property the Board deems to be no longer needed for fulfilling the purpose of the Association. This maintenance obligation shall include, without limitation, maintenance, repair and replacement of all landscaping, improvements and other Structures or infrastructures situated on the Common Property or other property designated by Declarant to be maintained by the Association. In addition, the Association shall maintain grass and other landscaping located along or in dedicated rights of way which were installed and maintained by Declarant, to the extent permitted by the applicable governmental authority. The foregoing maintenance shall be performed consistent with the Development-Wide Standard.

3.07 Water Run-off Property. The Association will maintain, repair and replace the natural or artificial features or Structures on the Water Run-off Property, if any, as necessary to collect and manage surface water run-off from the Property and from other real property granted surface water rights or easements over the Water Run-off Property. The Association may establish written rules and regulations regarding access to and recreational use of all or parts of the Water Run-off Property, subject to the approval of the Declarant. Declarant hereby reserves the right to grant rights and easements over the Water Run-off Property for surface water run-off to benefit property that is not part of the Development, both before or after the Declarant conveys the Water Run-off Property to the Association.



ARTICLE IV  
FLEMING POINTE HOMEOWNERS' ASSOCIATION

4.01 Purposes, Powers and Duties of the Association. The Association shall have all of the powers of a Texas non-profit corporation, organized under Chapter 22 of the Texas Business Organizations Code, and shall have the power and duty to exercise all of the rights, powers and privileges and to perform all of the duties and obligations of the Association as set forth in this Declaration and in Section 204.010 of the Texas Property Code.

4.02 Membership in the Association. Every Owner shall automatically be a member of the Association and such membership shall terminate only as provided in this Declaration. For purposes of voting, there shall be two (2) classes of Members as set forth in Section 4.03.

4.03 Voting Rights.

(a) Each Owner of a Lot, with the exception of Declarant, shall be a Class A Member and shall be entitled to one (1) Class A vote per Lot. Where such Owner is a group or entity other than one individual person, the vote on behalf of such Owner shall be exercised only by such individual person as shall be designated in a proxy instrument duly executed by or on behalf of such group or entity and delivered to the secretary of the Association.

(b) The Declarant shall be the sole Class B Member and shall be entitled to ten (10) votes for each Lot owned; provided, however, in no event shall the Class B Member have less than the total number of Class A votes plus one (1). The Class B Membership shall cease and convert to a Class A Membership when the Declarant no longer owns any interest in the Property.

4.04 Board of Directors. The affairs of the Association shall be conducted by a Board of Directors. After the expiration of the Development Period, at least one or more, but not all Directors, may be required to live in the Development. The Board, on behalf of the Association and for the benefit of the Property and the Owners and the Members and occupants, may provide and may pay for, out of the Assessment fund(s), one or more of the following:

(a) care, preservation and maintenance of the Common Property and Common Personal Property (including without limitation the proper maintenance of the private streets) and the furnishing and upkeep of any desired personal property for use in or on the Common Property and Common Personal Property;

(b) recreational and social programs and activities for the general benefit of the occupants and programs which are designed only for separately identifiable sub-groups of occupants, such as (but not limited to) infants, adolescents, teenagers, students, mothers and senior citizens;

(c) supplementing (to the extent, if any, deemed necessary, appropriate and affordable by the Board) the police, fire, ambulance, garbage and trash collection and similar services within the Property traditionally provided by local governmental agencies;

(d) taxes, insurance and utilities (including, without limitation, electricity, gas, water, sewer and telephone charges) which pertain to the Common Property;

(e) the services of any person or firm (including the Declarant and any affiliates of the Declarant) to manage the Association or any separate portion thereof, to the extent deemed advisable by the Board, and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board or by the manager of the Association. The Board is specifically authorized to hire and employ one or more managers, secretarial, clerical, staff and support employees. The Board is specifically authorized to engage personnel (such as ad valorem tax consultants and computer operators) and equipment (such as computers, software and electronic communication and transmission devices) for the administration of the collection of Assessments;

(f) legal and accounting services;

(g) architectural and design services; and

(h) any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, taxes or assessments which the Board is required to obtain or pay for pursuant to the terms of this Declaration or which in its opinion shall be necessary or proper for the operation or protection of the Association or for the enforcement of this Declaration.

The Board shall have the following additional rights and powers:

(i) to execute all declarations of ownership for tax assessment purposes with regard to any of the Common Property owned by the Association;

(j) to enter into agreements or contracts with insurance companies, taxing authorities, the holders of first mortgage liens on the individual Lots and utility companies

with respect to: (i) any taxes on the Common Property; (ii) monthly escrow and impound payments by a mortgagee regarding the assessment, collection and disbursement process envisioned by Article V. herein; (iii) utility installation, consumption and service matters; and (iv) the escrow or impounding of monies sufficient to timely pay the Annual Assessment;

(k) to borrow money (including, without limitation, the borrowing of funds from the Declarant and/or its affiliates) for the purpose of carrying out the activities of the Association, including the acquisition, construction, improvement, equipping and maintenance of Common Property, and in aid thereof to encumber by deed of trust, mortgage or other security interest any or all of the Association's property including Common Property and Common Personal Property and revenues from assessments, user fees and other sources and provided, however, that during the Development Period, the Association shall not grant or convey to anyone any mortgage, deed of trust or other security interest on or in Common Property or Common Personal Property without the written approval of Declarant;

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

(m) to protect or defend the Common Property and Common Personal Property from loss or damage by suit or otherwise, to sue or defend in any court on behalf of the Association and to provide adequate reserves for repairs and replacements;

(n) to make reasonable rules and regulations for the operation of the Common Property and Common Personal Property, charge reasonable expense reimbursements and/or deposits relating to the use, operation and maintenance of the Common Property and Common Personal Property, to amend any of the foregoing from time to time, and to enter into concession agreements regarding food, beverage, vending and other products and services within the Common Properties;

(o) to prepare the Annual Operating Budget and to make available for review by each Owner at the Association offices within ninety (90) days after the end of each Fiscal Year an annual report;

(p) to adjust the amount, collect and use any insurance proceeds to repair damage or replace lost property; and if proceeds are insufficient to repair damage or replace lost property, to assess the Owners in proportionate amounts to cover the deficiency;

(q) to enforce the provisions of this Declaration and any rules made hereunder and to enjoin and seek damages from any Owner, Occupant or Member for

violation of such provisions or rules. The Board is specifically authorized and empowered to establish (and to revise and amend from time to time) a monetary "fines" system which may include component steps such as warning citations, ticketing, due process hearings and appeals and a flat rate or discretionary range or geometric progression of fine amounts, which, when pronounced, shall constitute a permitted individual Lot Owner assessment secured by the continuing lien herein established;

(r) grant easements or rights of way over Common Property to any municipality or other governmental body, agency or authority, to any quasi-public agency or to any utility company or cable television system or to any owner of land contiguous to the property;

(s) suspend the right of use and enjoyment granted or permitted by Section 3.02;

(t) enter into and enforce all applicable provisions of valid agreements of the Association relating to the Common Property and Common Personal Property or any part thereof for the purpose of providing management, maintenance, materials, services or other matters consistent with the purposes of the Association or these Declarations;

(u) install, maintain, improve and replace any and all landscaping treatments, Common Personal Property and other Structures on the Common Property previously installed by the Declarant or installed by the Association to the extent that such landscaping or Structure is not otherwise maintained by the appropriate county and/or municipal entity having jurisdiction over the roads for Tarrant County, Texas; and

(v) install, maintain, improve and replace any and all fencing around the perimeter of the Property previously installed by the Declarant or installed by the Association.

The Association may: (i) borrow monies from the Declarant; (ii) lease equipment from the Declarant; (iii) contract with the Declarant concerning the provision of any personnel, labor, supplies, materials and services, provided such contract terms and conditions are: generally comparable (in terms of price, quality and timeliness) with those that might be otherwise obtained from unrelated third parties; and, as to professional management contracts, terminable by the Association at any time for any reason whatsoever and without penalty upon furnishing at least ninety (90) days advance notice thereof to Declarant. The Board shall not be required to solicit bids from unrelated third parties before entering into any contract with the Declarant and the reasonable judgment and resolution of the Board to enter into any such contract with the Declarant (absent fraud, gross negligence or willful misconduct) shall be final and conclusive and binding upon the Association and all of its Members.

4.05 Suspension of Membership Rights. The Board may suspend the right of use and enjoyment of the Common Property of any person who:

(a) is subject to the Right of Abatement by reason of having failed to take reasonable steps to remedy a violation or breach of either the Restrictions or the Design Standards;

(b) is delinquent in the payment of any Assessment levied by the Association; or

(c) is in violation of the rules and regulations of the Association relating to the use, operation and maintenance of Common Property.

Such suspension shall be for the balance of the period in which said Member or person shall remain in violation, breach or default, as aforesaid, except that in the case of a violation described in subsection (c) of this Section 4.05, the suspension may be for a period not to exceed sixty (60) days after the cure or termination of such violation. No such suspension shall prevent an Owner's ingress to or egress from his Lot.

4.06 Termination of Membership. Membership in the Association terminates only when a person ceases to be an Owner.

4.07 Voting Procedures. The procedures for the election of Directors of the Association and the resolution of such other issues as may be brought before the membership of the Association shall be governed by this Declaration, the Texas Property Code, the Texas Business Organizations Code and other applicable law, the Certificate of Formation of the Association, and the Bylaws of the Association, as each shall from time to time be in force and effect.

4.08 Control by Declarant.

(a) Notwithstanding any other language or provision to the contrary in this Declaration or in the Certificate of Formation or the Bylaws of the Association, Declarant hereby retains the right to appoint and remove any Director of the Board during the Development Period; provided, however, on or before the 120th day after the date 75 percent of the Lots are conveyed to Owners other than Declarant or a builder in the business of constructing homes who purchased the Lots from the Declarant for the purpose of selling completed homes built on the Lots, one-third of the Directors must be elected by Owners other than the Declarant.

(b) Upon the expiration of the Development Period, the Declarant shall deliver the books, accounts, and records, if any, which Declarant has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period and that Declarant has in its possession.

**4.09 LIABILITY LIMITATIONS. THE DECLARANT AND ITS OWNERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES, AND THE DIRECTORS, OFFICERS, COMMITTEE MEMBERS, AGENTS AND EMPLOYEES OF THE ASSOCIATION (FOR PURPOSES OF THIS PARAGRAPH, COLLECTIVELY THE "DECLARANT AND ASSOCIATION PARTIES") SHALL NOT BE LIABLE FOR DEBTS CONTRACTED FOR OR OTHERWISE INCURRED BY THE ASSOCIATION OR FOR ANY TORTS COMMITTED BY OR ON BEHALF OF THE ASSOCIATION OR FOR A TORT OF AN OWNER OR ANY OCCUPANT, WHETHER SUCH OTHER OWNER OR OCCUPANT WAS ACTING ON BEHALF OF THE ASSOCIATION OR OTHERWISE, EVEN IF ARISING FROM ANY OF THEIR SOLE OR CONCURRENT NEGLIGENCE OR STRICT LIABILITY OF THE DECLARANT AND ASSOCIATION PARTIES. FURTHERMORE, THE DECLARANT AND ASSOCIATION PARTIES SHALL NOT BE LIABLE FOR AND EACH OWNER HEREBY RELEASES DECLARANT AND THE ASSOCIATION PARTIES OF AND FROM ALL ACTUAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO ANY ACT OR OMISSION OF THE TOWN ARCHITECT, ANY PLAN REVIEW OR APPROVAL, THE FAILURE TO INSPECT OR MAINTAIN ANY RESIDENCE OR OTHER STRUCTURE, IMPROVEMENT OR PORTION OF THE PROPERTY, ANY FAILURE TO REPAIR OR MAINTAIN ANY STRUCTURE OR PORTION OF THE PROPERTY, ANY FAILURE TO DESIGN, ESTABLISH, CONSTRUCT, REPAIR OR MAINTAIN ANY COMMON PROPERTY OR WATER RUN-OFF PROPERTY, OR ANY PERSONAL INJURY, DEATH OR DAMAGE TO PERSONAL PROPERTY RESULTING FROM SUCH FAILURES AS DESCRIBED ABOVE, EVEN IF ARISING FROM ANY OF THEIR SOLE OR CONCURRENT NEGLIGENCE OR STRICT LIABILITY.**

**4.10 Insurance; Security Arrangements:**

(a) The Association shall have the right and option to purchase, carry and maintain in force insurance covering any or all portions of the Common Property, any improvements thereon or appurtenant thereto, for the interest of the Association and of all Members thereof, in such amounts and with such endorsements and coverage as shall be considered good sound insurance coverage for properties similar in construction, location, and use to the subject property. Such insurance may include, but need not be limited to:

(i) property insurance for loss or damage by fire and other hazards covered by a standard extended coverage endorsement in an amount equal to the maximum insurable replacement value, as determined annually by the insurance carrier;

(ii) public liability and third-party property damage insurance on a broad form basis;

(iii) fidelity bond for all officers and employees of the Association having control over the receipt or disbursement of funds; and

(iv) officers' and directors' liability insurance.

(b) Neither Declarant nor the Association warrant or guarantee that: (i) security is sufficient and adequate to diminish or eliminate the commission of crimes against persons or property; and (ii) such acts will not be attempted or actually occur within the Property. Any security arrangements provided are not designed or intended to replace the conventional police and fire protection and paramedical services.

**THE ASSOCIATION AND DECLARANT DO NOT HAVE A DUTY TO INSURE OR GUARANTEE THE SAFETY OF THE OWNERS IN THE DEVELOPMENT OR TO BE A PROVIDER OF SECURITY SERVICES. WHETHER OR NOT THESE SERVICES ARE PROVIDED BY THE ASSOCIATION OR DECLARANT, THE ASSOCIATION AND DECLARANT SHALL NOT BE HELD LIABLE FOR AND EACH MEMBER RELEASES THE ASSOCIATION AND DECLARANT OF AND FROM ANY LOSS, DAMAGE OR INJURY TO PERSON OR PROPERTY BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY, THE INEFFECTIVENESS OF SECURITY MEASURES AND SERVICES TAKEN OR PROVIDED OR THE ACTS OR OMISSIONS OF ANY SECURITY PERSONNEL HIRED BY THE ASSOCIATION OR DECLARANT. EACH OWNER, TENANT, GUEST OR INVITEE ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION AND DECLARANT, THEIR DIRECTORS, OFFICERS AND COMMITTEE MEMBERS HAVE MADE NO REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, RELATIVE TO ANY SECURITY MEASURES UNDERTAKEN WITHIN THE DEVELOPMENT.**

**THE ASSOCIATION WILL NOT CARRY ANY INSURANCE PERTAINING TO, NOR DOES IT ASSUME ANY LIABILITY OR RESPONSIBILITY FOR, THE REAL OR PERSONAL PROPERTY OF THE OWNERS AND OCCUPANTS (AND THEIR RESPECTIVE FAMILY MEMBERS AND GUESTS).**

(c) Each Owner expressly understands, covenants and agrees with Declarant and the Association that:

(i) neither Declarant nor the Association has any responsibility or liability of any kind or character whatsoever regarding or pertaining to the real and personal property of each Owner;

(ii) each Owner shall, from time to time and at various times, consult with reputable insurance industry representatives of each Owner's own selection to select, purchase, obtain and maintain appropriate insurance providing the amount, type and kind of insurance deemed satisfactory to each Owner covering his or her real and personal property;

**(iii) each Owner releases and holds Declarant and the Association harmless from any liability, claims, causes of action or damage of any kind or character whatsoever arising out of or related (directly or indirectly) to any and all aspects of security and private streets within the Property, including, without limitation:**

**(1) the interviewing, hiring, training, licensing, bonding and employment of security personnel (if any);**

**(2) the instructions, directions and guidelines issued to or by the security personnel (if any); and**

**(3) the duties, performances, actions, inactions or omissions of or by the security personnel (if any);**

**(iv) each Owner releases and indemnifies and holds Declarant and the Association harmless from any liability, claims, causes of action or damages of any kind or character whatsoever arising out of or related (directly or indirectly) to any and all aspects of occurrences, such as but not limited to the following: soil erosion, soil composition, groundwater, surface water, unstable slopes, ground shift, sink holes, winds, earthquakes, fires, flooding, and all other natural disasters or occurrences and water run-off or drainage within the Property; and**

(d) each Owner will cooperate with Declarant and the Association in connection with the establishment, evolution and maintenance of reasonable controls on the pedestrian and vehicular traffic into and within the Property and abide by any and all rules and regulations of the Association, as adopted and promulgated from time to time, related to the entry upon and use of any private streets and other Common Property within the Property.



#### 4.11 Use of Insurance and Condemnation Proceeds.

(a) The Association shall be the exclusive representative of the Members in any proceedings, negotiations, settlements or agreements concerning insurance covering or condemnation of Common Property. The Association and the Members shall use the net casualty insurance or condemnation proceeds to repair and replace damage or destruction of Common Property covered by such insurance or condemnation. Any balance from the proceeds of insurance or condemnation paid to the Association remaining after satisfactory completion of repair and replacement, shall be retained by the Association as part of a general reserve fund for repair and replacement of the Common Property.

(b) If the insurance or condemnation proceeds are insufficient to repair or replace any loss or damage to Common Property, the Association may levy a special assessment as provided for in Article V of this Declaration to cover the deficiency.

(c) If the Association owns any Lot, through foreclosure or otherwise, the Association shall be entitled as an Owner to all rights related to insurance coverage and condemnation of such Lot. The Association may, but is not obligated to, repair or replace any damage to a Lot owned by the Association; provided, however, the Association must exercise its discretion with regard thereto for the benefit of the Owners.

### ARTICLE V ASSESSMENTS

#### 5.01 Covenant for Assessments and Creation of Lien and Personal Obligation.

This Declaration creates a continuing lien on each Lot to secure the payment and performance of the obligations of Owners. Each Owner of a Lot other than Declarant, jointly and severally, for himself, his heirs, distributees, legal representatives, successors and assigns, by acceptance of a deed for a Lot, whether or not the covenants contained herein shall be expressed in any such deed, hereby covenants and agrees as follows:

(a) to timely pay to the Association the Annual Assessments levied by the Association pursuant to this Declaration against all owned Lots;

(b) to timely pay to the Association any Special Assessments which may be levied by the Association pursuant to this Declaration against all owned Lots;

(c) that there is hereby created a continuing charge and lien upon all Lots owned by him against which all such Assessments are made to secure payment of (i) such Assessments and any interest thereon as provided in Section 5.07 hereof and costs of collection including reasonable attorneys' fees; (ii) payment of the costs related to the

exercise by the Association of the Right of Abatement under Article IX hereof; and (iii) any other amounts due from the Owner to the Association under these Declarations, including late charges and fines;

(d) that such continuing charge and lien on such Lot binds such Lot in the hands of the then Owner, and the Owner's heirs, devisees, legal representatives, successors and assigns. Such charge and lien is superior to any and all charges, liens or encumbrances which may hereafter in any manner arise or be imposed upon any such Lot whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, deed of trust or other instrument, except (i) such liens for taxes or other public charges as are by applicable law made superior, and (ii) all deeds of trust, mortgages, vendors liens and other liens to secure debt given to secure a loan the proceeds of which are used (1) to purchase such Lot or Lots (together with any and all Structures which may from time to time be placed or located thereon) or (2) to finance the construction, repair or alteration of Structures on such Lot or (3) to finance the equity of an Owner in such Lot in accordance with the Texas Constitution Article XVI, Section 50(a)(6). A person or entity acquiring a lien or encumbrance on a Lot after this Declaration is recorded shall acknowledge, by the act of filing an instrument creating such lien, that such lien or encumbrance is inferior to the continuing lien for the charge and lien provided herein, whether or not such acknowledgment is specifically stated in the instrument creating the lien or encumbrance, except as provided by Subsections (i) and (ii) above. Notwithstanding the foregoing, however, subordination of the continuing charge and lien provided herein applies only to Assessments due and payable prior to the foreclosure sale of superior liens referenced above, and such foreclosure sale will not relieve future liability for Assessments thereafter due nor the continuing charge and lien securing payment thereof;

(e) that no sale or transfer at foreclosure or in lieu of foreclosure shall relieve any Lot from liability for any assessment thereafter assessed;

(f) that all Assessments (together with interest thereon as provided in Section 5.07 of this Declaration and costs of collection including reasonable attorneys' fees) levied against any Lot owned by him during the period that he is an Owner shall be (in addition to being a continuing charge and lien against such Lot as provided in Section 5.01(c) of this Declaration) a personal obligation which will survive any sale or transfer of the Lot owned by him; and

(g) failure to pay any Assessment when due shall constitute a default of the Owner's obligations hereunder, and shall entitle the Association to exercise the remedies provided under the terms of this Declaration.

5.02 Purpose of Assessment. The assessments levied by the Association shall be used exclusively for providing for the common good and general welfare of the Owners

and occupants, as determined by the Association in its sole discretion, including, but not limited to (and not requiring), security, the acquisition, construction, improvement, maintenance and equipping of Common Property and Common Personal Property, maintenance of private driveways which are designated by Declarant to be maintenance obligations of the Association, the enforcement of the Restrictions contained in this Declaration, the enforcement of the Design Standards, the payment of operating costs and expenses of the Association, including the establishment of monetary reserves both funded by surplus sums as referenced herein below and by a specific line item assessment, and the payment of all principal and interest when due on all debts owed by the Association. Notwithstanding any other provision hereof, Lots owned by Declarant shall not be charged with any Assessment.

5.03 Accumulation of Funds Permitted. The Association shall not be obliged to spend in any calendar year all the sums collected in such year by way of annual assessments or otherwise, and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply such surplus to the reduction of the amount of the Annual Assessments in any succeeding year, but may carry forward from year to year such surplus as the Board may deem to be desirable for the greater financial security of the Association and the effectuation of its purposes.

5.04 Annual Assessment.

(a) Beginning on the Commencement Date and continuing thereafter, each Lot (other than Lots owned by the Declarant) shall be subject to an Annual Assessment (the "Annual Assessment"). The amount of the Annual Assessment shall be determined by the Association. The amount of the Annual Assessment may vary depending on the Division in which a Lot is located. In the event that the transfer of a Lot from Declarant, thereby causing such Lot to be subject to the Annual Assessment, falls on a day other than January 1, the Annual Assessment for such year shall be prorated so that such Owner pays an Annual Assessment proportional to the number of days remaining in the calendar year. The words "Assessment Year" as used herein shall mean the calendar year. The prorated annual assessment for the first year shall be paid by each Owner at the time of closing on the Lot purchase.

(b) The Annual Assessment may be increased at any time and from time to time during each Assessment Year by the Association.

(c) In the event more than one (1) contiguous Lot(s) are owned by the same individual or entity, whether or not the contiguous Lot is used for the construction of a Residence, the contiguous Lot(s) is not subject to a reduced amount of Annual Assessment or Special Assessment. In the event any contiguous Lots are replatted into one Lot, such replatted Lot shall not be considered one Lot with respect to Assessments.

5.05 Special Assessments. In addition to the Annual Assessments authorized by this Article V, the Association may levy, in any Assessment Year and with such frequency as the Association shall deem necessary, special assessments ("Special Assessments") for each Lot (other than Lots owned by Declarant) for the purpose of paying, in whole or in part, any unanticipated operating expenses, as well as the cost of any acquisition, construction, reconstruction, repair or replacement of a capital improvement on the Common Property and any fixtures and personal property related thereto. Such Special Assessments may be levied by the Association in any Assessment Year without the approval of the Members, which Special Assessments in the aggregate do not exceed an amount equal to the Annual Assessment then in effect. Special Assessments exceeding said amount shall require the approval of three-fourths (3/4) of the Members who are present in person or by proxy at a meeting of Members duly held in accordance with the provisions of the Bylaws of the Association and this Declaration.

5.06 Assessment Procedure and Due Dates.

(a) The Board shall establish Annual Assessments for each Assessment Year at an amount determined according to the provisions of this Article V. The Board may allow the Annual Assessments to be paid in quarterly installments by passing a resolution or adopting a policy for such a payment plan. The Board may also establish payment procedures for payment of any Special Assessments levied in accordance with the provisions of this Article V.

(b) All Members of the Association shall be given written notice by the Board not less than thirty (30) nor more than sixty (60) days in advance of any meeting of the Members of the Association at which the Board will propose a Special Assessment.

5.07 Effect of Non-payment of Assessments. Any Assessment which is not paid on or before the date it is due will bear interest after the date it is due at the lower of (i) the highest legal rate of interest which can be charged or (ii) the rate of eighteen percent (18%) per annum or (iii) at such rate as the Board may from time to time establish; provided, however, that in no event shall the Board have the power to establish a rate of interest in violation of the laws of the State of Texas. In the event of default in the payment of any one or more installments of an Assessment, the Board may declare any remaining unpaid balance of the Assessment at once due and payable. All unpaid Assessments, together with any interest and costs of collection including reasonable attorneys' fees, shall be the personal obligation of such Owner, as well as a lien on the applicable Owner's Lot enforceable in accordance with the provisions of this Declaration.

5.08 Binding Effect of Declarations. Each Owner by acceptance of a deed for a Lot, whether or not it is expressed in such deed, is deemed, as part of the consideration for

such deed (i) to agree to pay and be personally liable for all Assessments applicable to the Lot or Lots owned by such Owner, and (ii) to agree to be bound by all of the other terms, conditions, obligations and agreements applicable to Owners in this Declaration and all amendments thereto.

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

- (a) All properties dedicated and accepted by the local public authority and devoted to public use;
- (b) All Common Property owned by or to be conveyed to the Association;
- (c) Any and all areas which may be reserved by the Declarant on the recorded plat(s) of the Property; and
- (d) Lots owned by Declarant.

5.10 Capitalization Fee. Upon acquisition of record title to a Lot by any Owner other than Declarant, a capitalization fee, if required by the Association, shall be made by or on behalf of such Owner to the working capital of the Association in an amount previously established by the Board. This amount is nonrefundable, shall be in addition to, not in lieu of, the Assessments levied on the Lot and shall not be considered an advance payment of any portion thereof. This amount shall be paid to the Association and shall be used for operating and other expenses incurred by the Association pursuant to the terms of this Declaration and the bylaws of the Association. Notwithstanding the foregoing provision, the following transfers will not be subject to the requirement to pay the initial capital contribution: (a) foreclosure of a deed of trust lien, tax lien or the Association's assessment lien; (b) transfer to, from or by the Association; (c) voluntary transfer by an Owner to one or more co-Owners. This Section does not obligate the Board or the Association to levy such fees.

5.11 Resale Certificate. The Board may enter into a contract with a managing agent to oversee the operation and management of the Association. Such agent may, and probably will, have fees, which will be charged to an Owner or purchaser of a Lot other than Declarant, 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 payment for the cost thereof has been received by the Association or its agent. Transfer fees and fees for the issuance of a Resale Certificate shall be at such rate as determined by the Board and/or the agent from time to time, are not refundable, shall not be regarded as a payment or credit against Assessments

due hereunder, and are in addition to the Capitalization Fee set forth in Section 5.10. This Section does not obligate the Board or the Association or its agent to levy such fees.

ARTICLE VI  
DESIGN STANDARDS

The intent of the Design Standards set forth in this Declaration and incorporated by the Design Guidelines as hereinafter described is to enhance and preserve the quality of the community while maintaining the natural beauty of the Development. Residences and Structures should preserve the natural features of each Lot such as significant trees, views, and topography and be sited so as to minimize disruption of the site. Accordingly, a house plan, site plan, landscape plan for the entire Lot, and any other documentation requested must be submitted for approval to the Committee in accordance with the Design Guidelines. Any changes or additions to the Lot after construction of the Residence is complete must also be approved by the Committee. The Committee may determine that what was found acceptable in one situation may not be acceptable in another as the intent is to ensure each design is appropriate to the specific Lot and does not dominate or contrast sharply with the surroundings.

6.01 Design Guidelines: Detailed design standards and guidelines for all Lots and improvements thereon have been or will be approved and adopted by the Declarant or the Committee and set forth in a separate document entitled "Fleming Pointe Design Guidelines" and herein referred to as the "Design Guidelines". The Design Guidelines are incorporated into this Declaration in their entirety as if expressly set forth. Each Owner will be provided with a copy of the Design Guidelines in connection with the purchase of a Lot. In addition, the Design Guidelines will be published on the Association's website and/or available through the Association or the Association's management company. The Committee may, from time to time, publish and promulgate amendments or supplements to the Design Guidelines and any revisions and updates are deemed to be automatically incorporated into this Declaration. Any amendments or supplements to the Design Guidelines will be consistent with the overall quality, general architectural style and design of the Development.

6.02 Authority of Committee. The Committee has the authority to make final decisions in interpreting the general intent, effect and purpose of those matters for which it is responsible in accordance with this Declaration. The Committee will endeavor to promulgate the Design Guidelines in such a manner that only materials complying with all applicable laws and regulations are specified therein, but each Owner of a Lot (and not the Committee) is responsible for complying with such laws and regulations on his or her respective Lot. If the Committee learns that materials specified by the Design Guidelines do not comply with applicable laws or regulations, the Committee will use reasonable efforts to inquire into the nature of the non-compliance and to make appropriate revisions

to the Design Guidelines. The Design Guidelines may include a schedule of fees appropriate to cover expenses incurred in conducting work, including but not limited to fees for non-compliance and fees for reviewing designs, plans and specifications, variance requests, architects, and builders.

6.03 Setback Lines. In addition to setback lines or building lines that are established by any plat or survey of the Property creating the Lots, other setback or building lines that pertain to a certain Division or sub-division of a Division are described in Section 8.07 below.

6.04. Grading and Drainage. A plot plan and drainage plan for the entire Lot(s) upon which the residence is constructed shall be prepared by a professional engineer or licensed landscape architect and submitted to the Committee before implementation of the plan. Drainage design is the responsibility of the Owner and is required to reduce erosion and water run-off to adjacent property. No grading of any kind is to be started until all plans for the Lot including plans for drainage, the Residence, and any other Structures, has been approved by the Committee and adequate anti-erosion measures have been installed. Except for actions taken by Declarant in connection with its development of the Property, no Owner shall take any action on such Owner's Lot which alters, modifies, redirects or diverts the flow of water through, onto, off of or across such Lot or any creek or drainage channel located on such Lot.

6.05 Inspection Rights. Any employee or agent of the Association may, after reasonable notice, at any reasonable time or times, enter upon any Lot and Structure thereon for the purpose of ascertaining whether the installation, construction, alteration or maintenance of any Structure or the use of any Lot or Structure is in compliance with the provisions of this Declaration. The Association and any such agent will not have committed a trespass or other wrongful act solely by reason of such entry or inspection, provided the inspection is carried out in accordance with the terms of this Section.

6.06 Violations. If any Structure shall be erected, placed, maintained or altered upon any Lot in violation of the provisions of this Declaration, the Association shall provide written notice to the Owner by certified mail, setting forth in reasonable detail the nature of the violation and the specific action or actions required to remedy the violation. If the Owner has not taken reasonable steps toward the required remedial action within thirty (30) days after the mailing of the notice of violation, then the Association shall have the Right of Abatement as provided in Section 10.02 hereof, in addition to any and all other remedies available at law or in equity.

6.07 Release. **NEITHER THE ASSOCIATION NOR THE OFFICERS, DIRECTORS, MANAGERS, MEMBERS, EMPLOYEES AND AGENTS OF THE ASSOCIATION SHALL BE LIABLE IN DAMAGES OR OTHERWISE TO**

ANYONE SUBMITTING PLANS AND SPECIFICATIONS TO ANY OF THEM FOR AN APPROVAL OR CONSENT REQUIRED OR ALLOWED HEREUNDER, OR TO ANY OWNER OF PROPERTY AFFECTED BY THESE DECLARATIONS BY REASON OF MISTAKE IN JUDGMENT, NEGLIGENCE, OR DISAPPROVAL OR FAILURE TO APPROVE, OR CONSENT TO ANY SUCH PLANS OR SPECIFICATIONS. NO CONSENT OR APPROVAL OF PLANS AND SPECIFICATIONS AND NO PUBLICATION OF ANY STANDARDS, BULLETINS OR INFORMATION SHEETS SHALL BE CONSTRUED AS REPRESENTING OR IMPLYING THAT SUCH PLANS, SPECIFICATIONS, GUIDELINES, BULLETINS OR SHEETS WILL, IF FOLLOWED, RESULT IN PROPERLY DESIGNED IMPROVEMENTS AND/OR IMPROVEMENTS BUILT IN A GOOD AND WORKMANLIKE MANNER. EVERY PERSON OR ENTITY WHO SUBMITS PLANS OR SPECIFICATIONS OR OTHERWISE REQUESTS A CONSENT, AND EVERY OWNER OF EACH AND EVERY LOT, AGREES THAT: THE OWNER WILL NOT BRING ANY ACTION OR LAW SUIT AGAINST THE ASSOCIATION OR THE OFFICERS, DIRECTORS, MANAGERS, MEMBERS, EMPLOYEES AND AGENTS OF THE ASSOCIATION, TO RECOVER ANY SUCH DAMAGES; HE OR SHE HEREBY RELEASES ALL CLAIMS, DEMANDS AND CAUSES OF ACTION ARISING OUT OF OR IN CONNECTION WITH ANY ACTION, JUDGMENT, NEGLIGENCE, MALFEASANCE OR NONFEASANCE OF THE ASSOCIATION OR THE OFFICERS, DIRECTORS, MANAGERS, MEMBERS, EMPLOYEES OR AGENTS OF ANY OF THE ASSOCIATION INCLUDING CLAIMS BASED IN PART OR IN WHOLE ON THE NEGLIGENCE OF THE ASSOCIATION OR ITS OFFICERS, DIRECTORS, MANAGERS, MEMBERS, EMPLOYEES OR AGENTS; AND HE OR SHE HEREBY WAIVES THE PROVISIONS OF ANY LAW WHICH PROVIDES THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS, DEMANDS AND CAUSES OF ACTION NOT KNOWN AT THE TIME THE RELEASE IS GIVEN. NOTWITHSTANDING THE FOREGOING, THE FOLLOWING CLAIM, DEMAND AND CAUSE OF ACTION IS EXPRESSLY RELEASED: ALL CLAIMS, DEMANDS AND CAUSES OF ACTION ARISING OUT OF OR IN CONNECTION WITH DAMAGES SUFFERED BY ANY OWNER AS A RESULT OF THE ALTERATION BY ANY OTHER OWNER OF THE NATURAL FLOW OF SURFACE WATERS FROM, UPON OR ACROSS ANY LOT, COMMON PROPERTY OR WATER RUN-OFF PROPERTY, OR WHICH AFFECTS OR ALTERS THE FLOW OF ANY WATERS IN ANY NATURAL OR ARTIFICIAL POND, CREEK, STREAM, WATERWAY, DITCH, WASH, CULVERT OR DRAINAGE CHANNEL FROM, UPON OR ACROSS ANY LOT OR COMMON PROPERTY.



ARTICLE VII  
ARCHITECTURAL CONTROL

(a) Architectural control shall be supervised and implemented by an Architectural Control Committee, herein called the "Committee", composed of three (3) or more individuals selected and appointed by Declarant. The Committee is vested with the authority in the Association to and shall use its best efforts to promote and ensure a high level of quality, harmony and conformity throughout the Property by setting guidelines and standards that are interpretive of the Design Standards described in this Declaration, some of which may be promulgated in the Design Guidelines. A majority of the Committee's members may act on the behalf of the entire Committee. In the event of the death or resignation of any member of the Committee, the Association shall have full authority to designate and appoint a successor; provided however, if a death or resignation occurs during the Development Period, the Declarant must approve any successor. No member of the Committee shall be entitled to any compensation for services performed hereunder and neither the Committee nor any of its members shall be liable to any Owner, for any claims, causes of action or damages of whatever kind (except where occasioned by gross negligence) arising out of service performed, actions taken, or inaction in connection with any undertaking, responsibility, or activity hereunder or request for same.

(b) No improvement of any kind may be erected on any Lot until all plans and specifications and/or plot plan have been submitted to and approved in writing by the Committee as being in compliance with the Design Guidelines and with the following:

(i) quality of workmanship and materials; adequacy of site dimensions; adequacy of structural design; proper facing of main elevation with respect to nearby streets;

(ii) conformity and harmony of the external design, color, type and appearance of exterior surfaces and landscaping;

(iii) location with respect to topography and finished grade elevation and effect of location and use on neighboring Lots and improvements situated thereon and any drainage arrangement;

(iv) the other standards set forth within this Declaration, the Design Guidelines (and any amendments thereto), or as may be set forth within bulletins promulgated by the Committee or the Association, or matters in which the Committee has been vested with the authority to render a final interpretation and decision. The specific steps required for plan submittal and approval are detailed in the Design Guidelines.

(c) Upon submission of a written narrative request for same, the Committee may, from time to time, in its sole discretion, permit Owners to construct, erect, or install improvements which are in variance from the Restrictions which are provided in this Declaration or which may be promulgated in the future. In any case, however, such variances will be in basic conformity with and shall blend effectively with the general architectural style and design of the community. No member of the Committee 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 Committee's right to strictly enforce these Restrictions 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 Committee 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.

(d) The Committee may from time to time publish and promulgate updates to the Design Guidelines which shall be fair, reasonable and uniformly applied and shall carry forward the spirit and intention of these Restrictions. Such bulletins shall supplement these Restrictions and are incorporated herein by reference. Although the Committee shall not have unbridled discretion with respect to taste, design and any absolute standards specified herein, the Committee shall be responsive to technological advances or general changes in architectural designs and related conditions in future years and use its best efforts to balance the equities between matters of taste and design (on the one hand) and use of private property (on the other hand).

(e) The Committee may, subject to the consent of Declarant, delegate some or all of its authority to a third-party architectural/design professional or so called "Town Architect" and agree to pay such professional a reasonable fee for its services on behalf of the Committee.

(f) The Committee has the authority to set reasonable fees to be paid by each Lot Owner in connection with submitting original and amended plans and specifications for review by the Committee.

(g) The Association may charge a plan review fee in an amount to be determined by the Board. The plan review fee, if any, shall be submitted at the time the Owner submits its plans to the Committee for review. The Committee shall have no duty to review any submission until the plan review fee has been paid.

ARTICLE VIII  
GENERAL COVENANTS AND RESTRICTIONS

8.01 Application: The covenants and restrictions contained in this Article VIII and elsewhere in these Declarations shall pertain and apply to all Lots and to all Structures erected or placed thereon.

8.02 Restrictions of Use. All Lots and Residences are to be used only for one single-family residence and purposes incidental thereto. No garage or Structure may be used as a Residence or living quarters, temporarily or otherwise, except by guests or domestic employees of the Lot Owner. No dwelling shall be occupied in any manner at any time prior to completion. No business of any kind shall be conducted on any Lot with the exception of the business of the Association and the Declarant and its transferees. No garage sales shall be permitted within the Development.

8.03 Resubdivision or Replatting of the Property. No Lot may be split, divided, or subdivided for sale, resale, gift, transfer, or otherwise, except by Declarant. Notwithstanding the foregoing, nothing herein shall prevent Declarant or the owners of any Lots from replatting two or more Lots into one Lot for construction of a single Residence thereon subject to the prior approval of Declarant if occurring during the Development Period or the Association after the Development Period. If two (2) or more Lots are combined into one (1) Lot for construction of a single Residence, such combined Lot shall be entitled to two (2) votes under Section 4.03 hereof and will still be assessed for the previously separate Lots.

8.04 Construction and Reconstruction Completion Time.

(a) The work of constructing the Residence and related Structures and landscaping the Lot, as well as construction of any approved remodels or additions to improved Lots shall be prosecuted diligently from the commencement of dirtwork thereon until completion. All construction and landscaping must be completed within a reasonable time frame for the size of Structure. If construction and landscaping are not completed in a timely manner or are not progressing diligently, in the sole determination of the Committee, the Association may impose progressive fines in accordance with a promulgated policy for progressive fines until construction is completed.

(b) In the event that a Residence is partially or totally damaged by fire or other causes, the Owner of such Residence must either rebuild the Residence or completely clear the Lot. In the event the Owner desires to rebuild, the construction or restoration of the damaged Residence, or portion thereof, must commence within one-hundred twenty (120) days after the occurrence causing the damage. No construction or restoration shall commence however, until plans and specifications have been submitted to the Committee

(and are subsequently approved). In the event the Owner does not desire to rebuild, the Owner must clear away all remaining debris and restore the Lot to the condition in which it existed prior to the initial construction of the damaged Residence.

8.05 Trailer Houses, Movable Structures and Buildings. No building, trailer, trailer house, mobile home, garage or building under construction shall be used, temporarily or permanently, as a residence on any Lot. No Owner, contractor or builder shall erect on any Lot any temporary building or shed for use in connection with construction on such Lot or as a sales office, unless approved by the Committee or Declarant. Declarant may erect and maintain a temporary structure for sales or construction purposes. No building or storage shed shall be permitted on any Lot unless approved by the Committee prior to construction or installation and must be located in the backyard of the Lot and match the architectural style of the residence constructed on such Lot.

8.06 Utilities. (a) Lots shall be served by water wells and septic systems to be installed by each Owner on its Lot.

(b) Electric service was designed, installed, paid, and maintained by a public utility provider for Fleming Pointe using an estimated size, placement, and quality of expected homes for a neighborhood like Fleming Pointe. If the size of a particular Residence, distance from the transformer, or electrical needs of the Owner are unusually large so as to require upgrading the electrical facilities, such costs, if any are charged by the utility provider, shall be borne by the Owner of the Lot or builder of the Residence.

(c) Telephone, cable, data service, to the extent available, is all provided and maintained by third parties and not within the control of the Declarant or Association.

8.07 Setbacks. Setback lines or building lines for the street-facing side of the Lots may be established by the plat of the Property and/or the Design Guidelines. Each Lot is subject to other setback and building line requirements on the side and back of the Lot set forth on the plat of the Property and/or the Design Guidelines. In the event of a conflict among the plat and the Design Guidelines, a resolution incorporating the more restrictive application will prevail unless a variance is granted in writing by the Association, Declarant, or Governing Authority, as appropriate.

The Declarant reserves the right to change in writing any building lines shown on the recorded plat of the Property, if any, or the setbacks set out in the Design Guidelines for any Lot so long as it holds legal title to such Lot, and likewise reserves the right to make such changes with the consent of the Owner of the Lot involved after it has parted with the title to such Lot.

8.08 Maintenance. Each Owner shall, at all times, both prior to commencement of construction of a Residence and subsequent thereto, keep and maintain each Lot and Structure owned by him, as well as all landscaping located thereon, in good condition and repair, including, but not limited to (i) the repairing and painting (and other appropriate external care) of all Structures such that the Development is characterized by a uniformly high level of home maintenance consistent with the Association's standard of maintenance for the Common Property; (ii) the seeding, watering and mowing of all lawns if and to the extent required by the Design Guidelines; (iii) the pruning and trimming of all trees, hedges and shrubbery so that the same are not obstructive of a view by motorists or pedestrians; and (iv) the removal of all trash and debris. Notwithstanding the foregoing, the maintenance required hereunder shall also extend from the boundary of a Lot to the curbing of the right-of-way bordering said Lot. If in the opinion of the Association, any Owner shall fail to perform the duties imposed by this Section, then the Association shall give written notice to the Owner to remedy the condition in question, setting forth in reasonable detail the nature of the condition and the specific action or actions needed to be taken to remedy such condition. If the Owner shall fail to take reasonable steps to remedy the condition within thirty (30) days after the mailing of said written notice by certified mail, then the Association shall have the Right of Abatement as provided in Section 10.02 hereof. Additional guidelines relating to the maintenance of Structures and landscaping may be established.

8.09 Commercial and Recreational Vehicles and Trailers. No commercial vehicle, house trailer, mobile home, motor home, recreational vehicle, camper, truck with camper top, boat or boat trailer or like equipment shall be stored or parked on any street or permitted on any Lot on a permanent basis, but shall be allowed to park on a Lot on a temporary basis not to exceed forty-eight (48) consecutive hours. Notwithstanding the foregoing, any such vehicle or equipment may be stored on a Lot, provided such vehicle or equipment is kept in an enclosed space and is concealed from view by neighboring residences and streets. Any such enclosure shall be approved by the Committee.

8.10 On-Street Parking. All vehicles shall be parked only upon the driveways and inside garages/auto courts of each Lot and the design of each Residence should account for parking for all driving residents as well as all household employees of the Owner as defined in the Design Guidelines. So long as streets and driveways are not blocked, limited on-street parking is permitted for temporary guest parking.

(d) No vehicle of any size which normally transports hazardous materials, inflammatory or explosive cargo may be kept in the Development at any time.

8.11 Non-Discrimination. No Owner or person authorized to act for an Owner shall refuse to sell or rent, after receiving a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny the purchase or rental of any Lot

to any persons because of race, color, religion, sex, age or national origin. Anything in this Declaration to the contrary notwithstanding, this covenant shall run with the land and shall remain in effect without any limitation in time.

8.12 Offensive Activities; Pets:

(a) No noxious, dangerous, or offensive activity shall be conducted on any Lot or Common Area nor shall anything be done thereon which is or may become an annoyance or nuisance within the Property or any portion thereof.

(b) No more than a total of four (4) dogs, cats and/or chickens (hens only, no roosters) may be kept on a Lot.

(c) No animals other than those referenced in subsection (b) directly above, may be kept.

(d) All Owners shall comply with the applicable governmental rules, regulations and ordinances, and if this Declaration sets forth Restrictions that are more restrictive, all Owners shall comply with the Restrictions.

(e) Should a particular animal or Lot become offensive or a nuisance to neighbors or other residents, the Association will have the right to impose fines and sanctions, up to and including demanding the animal(s) be removed from the Property. The Association's assessment may consider, but not be limited to, the safety of residents and animals, the general appearance of the Lot from Common Areas and other Lots, offensive noise and odors.

(f) The Association, or Declarant during the Development Period, may promulgate additional rules or conditions pertaining to the care and maintenance of animals and specifying the manner in which animals may be allowed off their Lot (such as for dog walking in the Common Area).

8.13 Signs. No sign or signs shall be displayed to the public view on any Lot, except that: (1) any builder, during the applicable initial construction and sales period, may utilize one professional sign (of not more than sixteen (16) square feet in size) per Lot for advertising and sales purposes, provided that such sign must be approved by the Committee; (2) thereafter, a dignified "for sale" sign (of not more than nine (9) square feet in size) may be utilized by the Owner of the respective Lot; (3) development-related signs owned or erected by Declarant shall be permitted; (4) signs displaying the name of a security company or the resident's school or sports affiliation shall be permitted, provided that such signs are (i) ground mounted, (ii) limited to two (2) in number; (iii) of a reasonable size; and (iv) are removable at the reasonable discretion of the Association if they are

found to be objectionable in any way; and (5) materials board(s) erected by any builder during the period of construction only. No other signs will be permitted, except upon approval by the Committee. All signs must be constructed of metal or wood and be professionally designed and constructed. Political signs, billboards, poster boards, and/or advertising structures of any kind on any part of any Lot is expressly prohibited.

8.14 Solid Waste/Weeds.

(a) No person shall dump rubbish, garbage, or any other form of solid waste on any Lot or on Common Property.

(b) No person shall burn rubbish, garbage, or any other form of solid waste on any Lot or on Common Property.

(c) Except for building materials employed during the course of construction of any Structure, no lumber, metals, building materials or solid waste of any kind shall be kept, stored or allowed to accumulate on any Lot unless screened or otherwise handled in a manner set forth by the Association.

(d) If rubbish, garbage, or any other form of solid waste is to be disposed of by being collected on a regular and recurring basis, containers may be placed in the open after sunset on the day prior to the day that a pick-up is to be made, in order to provide access to persons making such pick-up. All other times such containers shall be screened or enclosed such that they are not visible from the front of the Residence. Guidelines relating to the type of containers permitted, the manner of storage and the place of pick-up may be established by the Association.

(e) If after ten (10) days prior written notice an Owner shall fail to (i) control weeds, grass and/or other unsightly growth; (ii) remove trash, rubble, building and construction debris; or (iii) exercise reasonable care or conduct to prevent or remedy an unclean, untidy or unsightly condition, then Declarant, the Association or their designees shall have the authority and right to go onto said Lot for the purpose of mowing and cleaning said Lot and shall have the authority and right to assess and collect from the Owner of such Lot a fine for mowing or cleaning said Lot on each respective occasion of such mowing or cleaning. The assessments, together with interest (at the highest permitted lawful rate per annum) thereon and any costs of collection thereof, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such assessment is made. Each such assessment, together with interest thereon and costs of collection thereof, shall also be the continuing personal obligation of the Owner of such Lot at the time when the assessment occurred. The lien securing any such assessment shall be subordinate and inferior to the lien of any mortgage and any renewals or extensions thereof existing prior to the assessment date.

8.15 Architect and Builder Approval and Builder Escrow Deposits. All builders, including those that are also Lot owners, intending on constructing a Residence on any Lot must be approved by the Committee prior to commencing construction on any Lot. The Committee may require each builder to complete a builder qualification application and escrow agreement and submit additional documents as may be reasonably required to ascertain the Builder's qualifications to build within the Development and place funds in Escrow in accordance with the escrow agreement. The Committee retains the sole authority to restrict construction on any Lot to qualified builders only. The Committee may also require that architects, designers, engineers, landscape architects and similar experts be approved in advance of designing improvements that will be constructed on any Lot and to promulgate a process and criteria for such approval; or the Committee may require that only those experts who have obtained a particular professional certification or experience level may be permitted to design or construct Lot improvements. The Committee retains the right to ban any builders, subcontractors, vendors, architects, engineers, and so forth from performing work in the Development should they be found to have violated this Declaration or the Design Guidelines, or are otherwise not in good standing with the Committee or Association.

8.16 Oil and Gas Equipment and Operations. No tank of oil or inflammable fluid may be constructed or maintained on any Lot above the surface thereof. No oil drilling, oil development operations, oil refining, gas exploration, drilling and operations or quarrying shall be permitted on any residential Lot in the Development.

8.17 Lots Adjacent to Waterways, Floodways or Floodplains. Any Lot that is adjacent to a waterway or in a designated floodway or floodplain must be in compliance with all applicable state and federal laws, including but not limited to restrictions on Structures which may impede or alter the flow of water and removal or disturbance of the natural vegetation or terrain. It is the responsibility of each Owner to understand the laws applicable to his or her property.

8.18 Retaining Wall Lots. Owners of Retaining Wall Lots understand and agree to maintain in good condition any retaining wall on its Lot and that such maintenance obligation includes the obligation to cooperate with the adjoining Retaining Wall Lot owner in performing the maintenance.

8.19 Swimming Pools; Outdoor Equipment. All swimming pools must be fenced and the design and location of any proposed swimming pool, including fencing, pumps, backwash, and any other related paraphernalia must be approved in writing by the Committee. All sporting, recreation, exercise and/or play equipment, dog runs and other such outdoor items shall be placed in the back yard of the Lot and shall not be visible from the street. Size and location of all such outdoor items must be approved by the Committee.



8.20 Debris and Materials. Subject to the right of Declarant and any Owner to temporarily store and dispose of building materials and debris during the construction of a residence on the Lot, no Lot shall be used for the dumping or storage of building materials, rubbish, trash, debris, surplus soil, rocks or similar materials. Declarant has the right to approve, prohibit or impose limitations upon any such storage or disposal during the Development Period.

8.21 Compliance with Laws. Every Owner shall maintain such Owner's Lot and all improvements thereon in compliance with any and all applicable law, ordinances, and governmental regulations.

8.22 Other Restrictions. The Declarant may include restrictions other than those set out in this document in any contract or deed to any Lots or plots without otherwise modifying the general plan above outlined.

The restrictions herein set out shall be deemed to be referred to, adopted and made a part of each and every contract and deed executed by and on behalf of the Declarant, any Owner or any other person or entity conveying all or any of the Property, as though incorporated in full therein; and each such contract and/or deed shall be conclusively held to have been so executed, delivered and accepted upon the express conditions herein stated.

All of the restrictions, covenants, reservations, liens and charges appearing in these Declarations and the Design Guidelines, as well as those appearing in any contract, deed, or other conveyance to or covering any part of the Property, shall be construed together, but if any one of the same shall be held to be invalid, or for any reason is not enforceable, none of the other shall be affected or impaired thereby, but shall remain in full force and effect.

#### ARTICLE IX EASEMENTS, ZONING AND RESTRICTIONS

9.01 Zoning and Private Restrictions. None of the covenants, restrictions or easements created or imposed by this Declaration shall be construed as permitting any action prohibited by the recorded subdivision plat of the Development, applicable zoning laws, or by the laws, rules or regulations of any governmental body that are applicable to the Development. In the event of any conflict between such laws, rules or regulations and the covenants, restrictions and easements created or imposed by this Declaration, the most restrictive provision shall govern and control.

## 9.02 Easements.

(a) Perimeter Fencing. The Declarant (during the Development Period) and the Association shall have an easement and full rights of access, ingress, egress and use over the Property (including any and all Lots in the Development) to construct, maintain and replace (but shall not be required to do so) a fence around the perimeter of the Property. Should an adjacent Lot Owner damage the portion of the perimeter fencing on their property, it will be their responsibility to repair and restore it to its previous state.

(b) Common Property Construction and Maintenance. The Declarant (during the Development Period) and the Association shall have an easement and full rights of access, ingress, egress and use over a five feet (5') wide strip on each Lot extending along the boundary of all Common Property or perimeter of the Property to facilitate the construction, maintenance and replacement of any improvement along any streets or on the Common Property, including any retaining walls or improvements along the perimeter of the Property; provided, however, the Association must repair any damage to a Lot caused by the construction, maintenance or replacement of any improvement on the Common Property or perimeter of the Property.

(c) Utility and Pipeline. The recorded plat of the Property may show utility and gas pipeline easements over the Lots and the Common Property. All such utility and pipeline easement areas are hereby reserved for the benefit of any and all bonafide public utility and oil and gas service companies, cable companies and telephone companies which shall have the right of access, ingress, egress and use of the areas for the installation and maintenance of utility facilities to serve the Development or the third-party owners or operators of such facilities. Additionally, the Declarant (during the Development Period) and the Association shall have full rights of access, ingress, egress and use of such utility easement areas for the installation, operation, maintenance, repair or removal of any utility or obstruction that may be placed on such easement.

(d) Police Power. With respect to the common properties and streets, easements and right-of-ways within the Property, all governmental agencies and authorities shall have full rights of ingress, egress, and access for personnel and emergency vehicles for maintenance, police and fire protection, drainage and other lawful police powers designed to promote the health, safety and general welfare of the residents within the Development.

(e) Surface Water Run-off. The Water Run-off Property shall be burdened with such easements as may be granted in accordance with Section 3.07.

(f) Correct Drainage on Property. During and for a period of five (5) years after the expiration of the Development Period, Declarant hereby reserves for the

benefit of Declarant and any designee or assignee of Declarant, a blanket easement on, over and under the ground within the Property (excluding the area where a Residence is located) to install, maintain and correct drainage of surface waters and other erosion controls in order to maintain reasonable standards of health, safety and appearance, and will be entitled to remove trees or vegetation, without liability for replacement or damages, as may be necessary to provide adequate drainage facilities. Notwithstanding the foregoing, nothing herein will be interpreted to impose any duty upon Declarant to correct or maintain any drainage facilities within the Property. Any damage to a Lot caused by or due to the exercise of the foregoing drainage easement rights, shall be promptly repaired by the party exercising such easement rights after completing its construction activities in the damaged area.

(g) Right to Enter Lot. If an Owner fails to maintain its Lot as required herein, or in the event of emergency, Declarant, the Association and any emergency service or authority will have the right to enter upon the Lot to make repairs and to do other work reasonably necessary for the proper maintenance and operation of the Property. Entry upon the Lot as provided herein will not be deemed a trespass, and the entering party will not be liable for any damage caused thereby unless such damage is caused by the entering party's willful misconduct or gross negligence.

(h) Reservation of Easements. Easements over the Lots and the Common Properties for the installation, removal and maintenance of electric, telephone, cable television, water, gas and sanitary sewer lines and drainage facilities necessary to serve the Property are hereby reserved by the Declarant, together with the right to grant and transfer the easements. Declarant expressly reserves a blanket easement over the Common Properties and the Lots for the installation, removal and maintenance of electric, telephone, cable television, water, gas and sanitary sewer lines and drainage facilities. In connection with the conveyance of a Lot or Lots by the Declarant, the portion of the blanket easement covering the conveyed Lot or Lots may, at Declarant's option, be modified to expressly locate the easement areas in which such utilities and related facilities are to be located on the conveyed Lot or Lots. In the event the Declarant does not elect to expressly locate the easement areas in which such utilities and related facilities are to be located in connection with the conveyance of a Lot or Lots, the easement shall remain blanket in nature with respect to the areas in which such utilities and related facilities are to be located at a subsequent date, provided that the easement areas shall be located on the conveyed Lot or Lots as reasonably necessary to accommodate the construction of improvements on the Lot or Lots. The Declarant shall have the right to grant and transfer the easements as necessary to the respective utility providers.

(i) Temporary Easement to Complete Construction. All Lots will be subject to an easement of ingress and egress for the benefit of Declarant, any builder and their employees, subcontractors, successors and assigns, over and upon the front, side and rear

yards of the Lots as may be expedient or necessary for the construction, servicing and completion of Residences and landscaping upon adjacent Lots, provided that such easement will terminate as to any Lot twenty-four (24) months after the date such Lot is conveyed to an Owner. Any damage to a Lot caused by Declarant or any builder due to exercise of the foregoing completion easement rights, shall be promptly repaired by the party exercising such easement rights after completing its construction activities in the damaged area.

## ARTICLE X ENFORCEMENT

10.01 Right of Enforcement. This Declaration and the Restrictions contained herein shall inure to the benefit of and shall be enforceable by (i) the Declarant so long as it is an Owner, (ii) the Association, and (iii) each Owner, his legal representatives, heirs, successors and assigns.

### 10.02 Right of Abatement.

(a) Except where different notice provisions are provided herein, in the event of a violation or breach of any Restriction contained in this Declaration, the Association shall give written notice by certified mail to the Owner setting forth in reasonable detail the nature of such violation or breach and the specific action or actions needed to be taken to remedy such violation or breach. If the Owner shall fail to take reasonable steps to remedy such violation or breach within thirty (30) days after the mailing of said written notice, then the Association shall have the right of abatement ("Right of Abatement") set forth below in addition to any and all other remedies available at law or in equity.

(b) The Right of Abatement, as used in this Section and elsewhere in these Declarations, means the right of the Association to enter at all reasonable times upon any Lot or Structure, as to which a violation, breach or other condition to be remedied exists, and to take the actions specified in the notice (referenced above) to the Owner to abate, extinguish, remove or repair or otherwise cure such violation, breach or other condition which may exist thereon contrary to the provisions hereof, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and such actions, provided such entry and such actions are carried out in accordance with the provisions of this Section. The costs of the Association related to the exercise of the Right of Abatement (including the costs of collection, including reasonable attorneys' fees), together with interest thereon at the lower of the highest rate permitted by Law or eighteen percent (18%), shall be a binding personal obligation of the Owner of the Lot subject to the Right of Abatement, enforceable in law, and the lien granted under Article V hereof on such

Owner's Lot, enforceable pursuant to the provisions of Section 10.04 hereof shall secure such costs.

10.03 Specific Performance: Nothing contained in this Declaration shall be deemed to affect or limit the rights of the Declarant, the Association or any Owner to enforce the Restrictions by appropriate judicial proceedings or to recover damages or any other relief available at law or in equity. However, it is hereby declared that it may be impossible to measure accurately in money the damages which will accrue to a beneficiary hereof, its transferees, successors or assigns, by reason of a violation of, or failure to perform any of the obligations provided by, this Declaration; and, therefore, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance as well as any other relief available at law or in equity, to enforce the provisions hereof.

10.04 Collection of Assessments and Enforcement of Lien.

(a) If any Assessment, interest, cost or other charge is not paid as required by this Declaration, the Association may bring an action at law against the Owner personally obligated to pay the same.

(b) As an additional remedy, if any Assessment, interest, cost or other charge is not paid as required by this Declaration, each Owner hereby grants to the Association the right to foreclose the lien created by this Declaration against the Lot or Lots subject to this lien in accordance with Section 209.0092 of the Texas Property Code. These rights and remedies are in addition to all other remedies available at law or in equity.

10.05 No Waiver. The failure of the Declarant, the Association, or the Owner of any Lot, his or its respective legal representatives, heirs, successors and assigns, to enforce any Restrictions herein contained is not a waiver of the right to do so thereafter, as to the same violation or breach or as to any violation or breach occurring prior or subsequent thereto.

ARTICLE XI  
DURATION AND AMENDMENT

11.01 Duration. This Declaration runs with and binds the Property in perpetuity.

11.02 Amendments by Declarant. During the Development Period, Declarant may amend this Declaration by an instrument in writing filed and recorded in the deed records of Tarrant County, Texas, without the approval of any Member or mortgagee; provided, however, that (i) in the event that such amendment materially alters or changes any Owner's right to the use and enjoyment of such Owner's Lot as set forth in this Declaration or if such amendment adversely affects the title to any Lot, such amendment shall be valid

only upon the written consent thereto by a majority in number of the then existing Members affected thereby, and (ii) in the event that such amendment would materially and adversely affect the lien status, security and interest of any mortgagee, such amendment shall be valid only upon the written consent thereto by the mortgagee so affected. Any amendment made pursuant to this Section 11.02 shall be certified by Declarant as having been duly approved by Declarant, and such Members and mortgagees if required, and shall be effective only upon recordation or at such later date as shall be specified in the amendment itself. Each Owner, by acceptance of a deed or other conveyance to a Lot, agrees to be bound by such amendments as are permitted by this Section 11.02 and further agrees that, if requested to do so by Declarant, but without implying a requirement to obtain any consent, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Development (i) if such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule or regulation or any judicial determination which shall be in conflict therewith, (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Lots subject to this Declaration, (iii) if such amendment is required by an institutional or governmental lender, purchaser or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on any Lot subject to this Declaration, (iv) if any such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration, or (v) if such amendment is necessary to correct a scrivener's error in the drafting of this Declaration.

11.03 Amendments by Association. Amendments to this Declaration, other than those authorized by Section 11.02 hereof, shall be proposed and adopted in the following manner:

(a) Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered and shall be delivered to each member of the Association.

(b) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board or by Members of the Association. Such amendment must be approved by Members holding at least sixty-seven (67%) of the total votes allowed to Owners that are entitled to vote; provided, however, (i) that any amendment that materially and adversely affects the lien status, security and interest of any mortgagee must be approved by such mortgagee and (ii) during the Development Period, such amendment must be approved by Declarant.

(c) The agreement of the required percentage of the Owners and, where required, the Declarant and any mortgagee, to any amendment of this Declaration, shall be evidenced by their execution of such amendment, or, in the alternative, and provided that

Declarant does not then have the right to approve such amendment, the sworn statement of the President and any Vice President or the Secretary of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that the Agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when recorded or at such later date as may be specified in the Amendment itself.

ARTICLE XII  
MISCELLANEOUS

12.01 No Reverter. No restriction herein is intended to be, or shall be construed as a condition subsequent or as creating a possibility of a reverter.

12.02 Severability. A determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.

12.03 Headings. The headings of the Articles and sections hereof are for convenience only and shall not affect the meaning or interpretation of the contents of this Declaration.

12.04 Gender. Throughout this Declaration, where appropriate, the masculine gender shall be deemed to include the feminine and neuter genders, and the singular shall include the plural, and vice versa.

12.05 Notices. All amendments, notices, requests, objections, waivers, rejections, agreements, approvals, disclosure or consent of any kind made pursuant to this Declaration, whether made by the Declarant, the Association, the Owner, or any other person, shall be in writing. All such writings shall be sufficient only if deposited in the United States Mail, certified or registered, return receipt requested, with sufficient postage, and sent to the following addresses:

(a) Declarant: Beaten Path Development II-Lakeside, LLC  
Attn: Jeffrey David  
700 West Harwood Rd., Suite G2  
Hurst, Texas 76054

(b) Owner: Each Owner's address as registered with the Association in accordance with the Bylaws.

Any written communication with this Section 12.05 shall be deemed received on the third (3<sup>rd</sup>) day following the day such written notice is deposited in the United States Mail in accordance with this Section.

12.06 NO LIABILITY. DECLARANT HAS, USING BEST EFFORTS AND ALL DUE DILIGENCE, PREPARED AND RECORDED THIS DECLARATION SO THAT EACH AND EVERY OWNER SHALL HAVE THE RIGHT AND THE POWER TO ENFORCE THE TERMS AND PROVISIONS OF THIS DECLARATION AGAINST EVERY OTHER OWNER. HOWEVER, IN THE EVENT THAT THIS DECLARATION IS, FOR ANY REASON WHATSOEVER, UNENFORCEABLE BY AN OWNER (OR ANY OTHER PERSON) IN A COURT OF LAW OR OTHERWISE, DECLARANT SHALL HAVE NO LIABILITY OF ANY KIND AS A RESULT OF SUCH UNENFORCEABILITY, AND EACH AND EVERY OWNER, BY ACCEPTANCE OF A DEED CONVEYING A LOT, ACKNOWLEDGES THAT DECLARANT SHALL HAVE NO SUCH LIABILITY.

12.07 Assignment by Declarant. Declarant may assign or license to any person or entity any or all rights, powers, reservations, easements, privileges herein reserved by Declarant. Any such assignee shall have the same right to assign. There may be more than one Declarant in the event Declarant makes a partial assignment of Declarant rights or status.

### ARTICLE XIII MORTGAGEE PROVISIONS

Notwithstanding any other provisions of these Declarations or the Bylaws or Certificate of Formation of the Association, the Declarant, during the Development Period, and, thereafter, the Association, in each of their sole discretion, have the right (but not the obligation) to amend these Declarations without the vote of the Members to the extent necessary or prudent to meet the minimum requirements of any holder of an Institutional Mortgage to enable the Owners or prospective Owners to take part in any lending transaction to finance or refinance the acquisition of a Lot or construction of a Structure.

### ARTICLE XIV ADDITIONAL NOTICES, ACKNOWLEDGEMENTS, RELEASES AND INDEMNITIES

14.01 No Views are Guaranteed. Each Owner understands and agrees by accepting or purchasing a Lot subject to this Declaration that views of natural or artificial structures or areas are not guaranteed or promised with respect to any Lot in the Development. Views that may be available to a Lot at the time of purchase may not be available to that Lot subsequently, whether as a result of the addition of Structures, construction of Residences, landscaping endeavors or any other reason whatsoever.



14.02 Water Wells and Private Septic/Aerobic Tank Systems. Each Owner understands and agrees by accepting or purchasing a Lot subject to this Declaration that the water source and sewage disposal source for each Lot is provided by private water wells and private septic/aerobic tank systems and not by any city or county municipality.

14.03 Limitation of Liability and Assumption of the Risk and Indemnification.

**EACH OWNER, BY ACCEPTANCE FO A DEED TO A LOT, ACKNOWLEDGES THAT THE USE AND ENJOYMENT OF ANY COMMON PROPERTY, COMMON PERSONAL PROPERTY, THE LAKE AND ALL AREAS ADJACENT THERETO, INVOLVES CERTAIN RISKS AND INHERENT DANGERS INCLUDING, WITHOUT LIMITATION, RISKS OF PERSONAL INJURY, DEATH OR DAMAGE TO PROPERTY AND EACH OWNER HAS EVALUATED THESE RISKS AND FACTORS IN MAKING HIS OR HER DECISION TO PURCHASE PROPERTY WITHIN THE DEVELOPMENT. EACH OWNER ACKNOWLEDGES, UNDERSTANDS AND COVENANTS TO INFORM ITS TENANTS AND ALL OCCUPANTS OF ITS LOT THAT THE ASSOCIATION, THE BOARD, AND DECLARANT ARE NOT INSURERS OF PERSONAL SAFETY AND THAT EACH PERSON USING THE COMMON PROPERTY, COMMON PERSONAL PROPERTY AND LAKE ASSUMES ALL RISKS OF PERSONAL INJURY, DEATH AND LOSS OR DAMAGE TO PROPERTY RESULTING FROM THE USE AND ENJOYMENT THEREOF.**

**EACH OWNER SHALL RELY UPON ITS OWN INVESTIGATION AND AGREES THAT NEITHER THE ASSOCIATION, THE BOARD NOR DECLARANT SHALL BE HELD LIABLE FOR AND EACH OWNER AND OCCUPANT RELEASES THE ASSOCIATION, THE BOARD, THE DECLARANT AND ANYONE ACTING ON THEIR BEHALF OF AND FROM ANY AND ALL LOSS, DAMAGE OR INJURY TO PERSON OR PROPERTY BY REASON OF (A) THE EXISTENCE OF THE COMMON PROPERTY, THE COMMON PERSONAL PROPERTY, THE LAKE OR ANY USE THEROF, (B) THE SUPPLY OF WATER TO THE DEVELOPMENT AND RESIDENCES LOCATED THEREIN, (C) CHANGES IN THE WATER LEVEL OF THE LAKE FOR ANY REASON, (E) EROSION OF THE BOUNDARIES OF THE LOTS, (F) NOISE FROM RECREATIONAL EQUIPMENT AND PERSONS USING THE COMMON PROPERTY, COMMON PERSONAL PROPERTY AND LAKE, (G) CHANGES IN WATER LEVEL, (H) VIEW RESTRICTIONS, (I) REDUCTION IN PRIVACY CAUSED BY TRAFFIC ON OR ALONG THE LAKE, AND (J) TRESPASS UPON THE LOT. EACH OWNER, OCCUPANT, AGENT, CONTRACTOR, TENANT OR GUEST ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION AND DECLARANT, THEIR DIRECTORS, OFFICERS AND COMMITTEE MEMBERS HAVE MADE NO REPRESENTATIONS OR**

**WARRANTIES, EXPRESSED OR IMPLIED, RELATIVE TO ANY OF THE FOREGOING MATTERS OR REGARDING THE SECURITY MEASURES UNDERTAKEN WITHIN THE COMMON PROPERTY OR WITH RESPECT TO THE USE OF THE COMMON PERSONAL PROPERTY.**

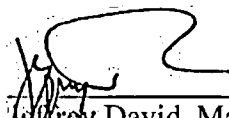
**EACH OWNER AND OCCUPANT AGREES TO INDEMNIFY, DEFEND AND HOLD DECLARANT, THE ASSOCIATION, THE BOARD AND ANYONE ACTING ON THEIR BEHALF HARMLESS FROM ANY LIABILITY, CLAIMS, CAUSES OF ACTION OR DAMAGE OF ANY KIND OR CHARACTER WHATSOEVER ARISING OUT OF OR RELATED (DIRECTLY OR INDIRECTLY) TO ANY AND ALL ASPECTS OF THE DESIGN, CONSTRUCTION, USE OR ENTRY UPON THE LAKE, THE COMMON PROPERTY OR THE COMMON PERSONAL PROPERTY, AND WITH RESPECT TO THE ASSOCIATION'S OBLIGATION TO MANAGE OR MAINTAIN THE COMMON PROPERTY AND THE COMMON PERSONAL PROPERTY, INCLUDING, WITHOUT LIMITATION: (A) HIRING, TRAINING, LICENSING, BONDING AND EMPLOYMENT OF ASSOCIATION PERSONNEL (IF ANY); (B) THE WARNINGS, INSTRUCTIONS, DIRECTIONS AND GUIDELINES ISSUED TO OR BY THE ASSOCIATION PERSONNEL (OR THE LACK THEREOF); AND (C) THE DUTIES, PERFORMANCES, ACTIONS, INACTIONS OR OMISSIONS OF OR BY THE ASSOCIATION PERSONNEL (IF ANY). THE FOREGOING RELEASES AND INDEMNITIES ARE INTENDED TO APPLY EVEN IF THE RELEASED OR INDEMNIFIED PARTY IS NEGLIGENT, IN WHOLE OR IN PART.**

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be duly executed as provided in the acknowledgment set forth hereinafter but to be effective as of April 6, 2023.

BEATEN PATH DEVELOPMENT II-  
LAKESIDE, LLC,  
a Texas limited liability company

By: Beaten Path Development, LLC,  
a Texas limited liability company,  
its Sole Manager

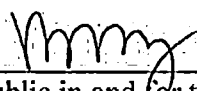
By: OCH Enterprises, LLC,  
a Texas limited liability company,  
its Sole Member

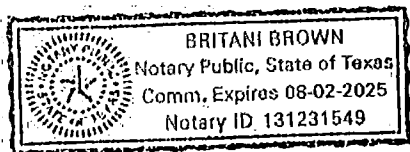
By:   
\_\_\_\_\_  
Jeffrey David, Manager

THE STATE OF TEXAS  
COUNTY OF TARRANT

This instrument was acknowledged before me on the 6th day of April, 2023, by Jeffrey David, Manager of OCH Enterprises, LLC, the Sole Member of Beaten Path Development, LLC, the Sole Manager of Beaten Path Development II-Lakeside, LLC, a Texas limited liability company, on behalf of such limited liability company.

[Seal]

  
\_\_\_\_\_  
Notary Public in and for the State of Texas



**EXHIBIT A**  
**PROPERTY DESCRIPTION AND DEPICTION**

**[SEE ATTACHED]**



ESTABLISHED 1880

**BROOKES BAKER SURVEYORS**A PROFESSIONAL CORPORATION  
TITLE AND TOPOGRAPHIC SURVEYING930 Hickey Court  
Granbury, Texas 76049  
817-279-0232  
Fax 817-279-9694BROOKES BAKER (1902-1955)  
JOHN F. BAKER (1924-1985)  
S.J. BAKER (1927-1999)  
FRED M. MORRIS (1936-1999)  
DON W. HICKEY (1966-2012)ALAN W. HICKEY, RPLS  
GAREY W. GILLEY, RPLS, LSLS  
CONSULTANTMarch 11, 2021  
Page 1 of 5

Field notes for:

Parts of the R. GANGARA SURVEY, Abstract No- 563, and the M. HUNT SURVEY, Abstract No. 760 situated in Tarrant County, Texas; embracing a portion of the 230-854/1000 acres tract described in the deed to AEHCO, LTD., recorded in Document No. D212131187 of the Real Records of Tarrant County, Texas and described by metes and bounds as follows:

The basis for bearings is the Texas Coordinate System North Central Zone NAD 83 (2011). All 5/8" capped irons recovered called for in this description are marked "Brookes Baker Surveyors".

Beginning at the southeast corner of said 230-854/1000 acres tract, in the westerly line of F. M. Highway No. 1220 (Morris Dido Newark Road), from which a 4" pipe fence corner post bears north 68 degrees-31 minutes-16 seconds east 0-76/100 of a foot.

Thence southwesterly, along the southeasterly line of said 230-854/1000 acres tract, the following:

south 68 degrees 31 minutes 16 seconds west 1990-60/100 feet to a 5/8" capped iron recovered;  
south 43 degrees 57 minutes 13 seconds west 938-28/100 feet to an axle recovered;  
south 70 degrees 48 minutes 28 seconds west 500-00/100 feet to a corner from which  
a 4" pipe fence post bears north 64 degrees-05 minutes-14 seconds west 0-40/100 of a foot;  
south 18 degrees 48 minutes 28 seconds West 557-32/100 feet to the most southerly southwest corner of said 230-854/1000 acres tract, and the 649 feet elevation contour of Eagle Mountain Lake, from which a axle recovered bears north 18 degrees-48 minutes-28 seconds east 30-81/100 feet.

Thence northwesterly, northeasterly, southeasterly and southwesterly, along the meanders of the said 649 feet elevation contour, for the westerly line of said 230-854/1000 acres tract, the following:

north 62 degrees 28 minutes 30 seconds west 107-37/100 feet;  
north 61 degrees 21 minutes 38 seconds west 69-08/100 feet;  
north 47 degrees 08 minutes 33 seconds west 77-09/100 feet;  
north 87 degrees 39 minutes 23 seconds west 28-47/100 feet;  
north 33 degrees 29 minutes 33 seconds west 44-81/100 feet;  
north 20 degrees 14 minutes 58 seconds east 32-37/100 feet;

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north 46 degrees 16 minutes 43 seconds west 37-08/100 feet;  
north 21 degrees 30 minutes 44 seconds west 52-37/100 feet;  
north 12 degrees 31 minutes 16 seconds west 28-89/100 feet;  
north 09 degrees 26 minutes 27 seconds west 45-33/100 feet;  
north 31 degrees 06 minutes 12 seconds west 25-69/100 feet;  
south 64 degrees 08 minutes 43 seconds west 20-82/100 feet;  
north 05 degrees 48 minutes 57 seconds east 55-05/100 feet;  
north 20 degrees 01 minutes 33 seconds east 46-04/100 feet;  
north 21 degrees 15 minutes 11 seconds west 40-81/100 feet;  
north 24 degrees 35 minutes 38 seconds east 74-57/100 feet;  
north 47 degrees 48 minutes 19 seconds east 35-07/100 feet;  
north 02 degrees 16 minutes 35 seconds west 97-42/100 feet;  
north 32 degrees 04 minutes 52 seconds east 89-47/100 feet;  
north 44 degrees 02 minutes 34 seconds east 96-53/100 feet;  
north 35 degrees 56 minutes 53 seconds east 71-47/100 feet;  
north 49 degrees 50 minutes 20 seconds east 89-09/100 feet;  
north 22 degrees 05 minutes 56 seconds east 231-20/100 feet;  
north 49 degrees 52 minutes 12 seconds east 11-74/100 feet;  
north 12 degrees 34 minutes 19 seconds west 113-73/100 feet;  
north 37 degrees 40 minutes 01 second west 100-62/100 feet;  
north 45 degrees 01 minutes 54 seconds west 128-87/100 feet;  
north 43 degrees 02 minutes 53 seconds west 70-23/100 feet;  
north 18 degrees 07 minutes 33 seconds west 89-16/100 feet;  
north 10 degrees 13 minutes 22 seconds east 149-93/100 feet;  
north 00 degrees 19 minutes 16 seconds west 97-40/100 feet;  
north 05 degrees 47 minutes 01 second east 113-27/100 feet;  
north 80 degrees 32 minutes 37 seconds east 118-63/100 feet;  
north 25 degrees 24 minutes 44 seconds east 116-55/100 feet;  
north 44 degrees 21 minutes 02 seconds west 109-56/100 feet;  
north 25 degrees 30 minutes 38 seconds west 80-14/100 feet;  
north 23 degrees 56 minutes 59 seconds west 50-13/100 feet;  
south 84 degrees 06 minutes 33 seconds east 48-35/100 feet;  
north 10 degrees 25 minutes 49 seconds west 49-43/100 feet;  
north 11 degrees-40 minutes-00 seconds east 21-43/100 feet;  
north 77 degrees 58 minutes 17 seconds east 141-54/100 feet;  
south 08 degrees 08 minutes 35 seconds east 25-62/100 feet;  
south 63 degrees 26 minutes 19 seconds east 42-31/100 feet;  
south 11 degrees 07 minutes 56 seconds east 34-10/100 feet;  
south 58 degrees 44 minutes 07 seconds east 43-72/100 feet;  
north 74 degrees 37 minutes 10 seconds east 64-74/100 feet;

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Field notes for:(continued)

north 49 degrees 49 minutes 29 seconds east 104-92/100 feet;  
north 83 degrees 11 minutes 30 seconds east 51-35/100 feet;  
north 88 degrees 59 minutes 48 seconds east 129-84/100 feet;  
north 61 degrees 08 minutes 12 seconds east 130-50/100 feet;  
south 45 degrees 48 minutes 46 seconds east 27-67/100 feet;  
north 75 degrees 14 minutes 04 seconds east 34-47/100 feet;  
north 21 degrees 49 minutes 02 seconds east 18-76/100 feet;  
south 72 degrees 15 minutes 12 seconds west 36-65/100 feet;  
north 57 degrees 53 minutes 27 seconds west 37-36/100 feet;  
south 66 degrees 45 minutes 32 seconds west 105-13/100 feet;  
south 83 degrees 07 minutes 02 seconds west 79-44/100 feet;  
north 86 degrees 19 minutes 35 seconds west 109-70/100 feet;  
south 62 degrees 36 minutes 17 seconds west 73-45/100 feet;  
north 40 degrees 36 minutes 36 seconds west 37-06/100 feet;  
north 56 degrees 33 minutes 24 seconds west 52-61/100 feet;  
north 67 degrees 19 minutes 33 seconds west 69-71/100 feet;  
south 74 degrees 36 minutes 21 seconds west 68-71/100 feet;  
north 06 degrees 58 minutes 20 seconds west 61-29/100 feet;  
north 07 degrees 12 minutes 23 seconds west 67-00/100 feet;  
south 20 degrees 03 minutes 15 seconds west 36-48/100 feet;  
south 15 degrees 07 minutes 10 seconds east 17-32/100 feet;  
south 35 degrees 48 minutes 17 seconds west 59-97/100 feet;  
north 11 degrees 20 minutes 10 seconds west 97-07/100 feet;  
north 00 degrees 29 minutes 55 seconds east 55-52/100 feet;  
north 20 degrees 51 minutes 47 seconds west 121-70/100 feet;  
south 09 degrees 53 minutes 03 seconds west 130-55/100 feet;  
south 07 degrees 49 minutes 07 seconds east 112-27/100 feet;  
south 19 degrees 36 minutes 53 seconds west 122-77/100 feet;  
south 50 degrees 53 minutes 18 seconds west 76-49/100 feet;  
south 06 degrees 02 minutes 45 seconds west 38-82/100 feet;  
south 02 degrees 37 minutes 08 seconds west 93-10/100 feet;  
south 49 degrees 37 minutes 04 seconds east 56-85/100 feet;  
south 39 degrees 20 minutes 52 seconds west 38-95/100 feet;  
north 77 degrees 43 minutes 00 seconds west 25-08/100 feet;  
north 14 degrees 15 minutes 36 seconds west 30-30/100 feet to the southwest corner  
of said 230-854/1000 acres tract, and the most southerly southeast corner of the  
230-854/1000 acres tract described in the deed to Lake Place Ranch, LTD. recorded in  
Document No. D212131186 of the said Real Records.



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Field notes for:(continued)

Thence north 07 degrees 00 minutes 48 seconds east, along the west line of said AEHCO, LTD. 230-854/1000 acres tract, and the east line of said Lake Place Ranch, LTD. 230-854/1000 acres tract, 549-54/100 feet to the southwesterly corner of the 73-314/1000 acres tract described in the deed to Lake Place Ranch, LTD. recorded in Document No. D212131188 of the said Real Records, from which a 3" pipe fence post bears south 29 degrees-08 minutes-23 seconds west 0-60/100 of a foot.

Thence northeasterly and southeasterly, along the southerly line of said 73-314/1000 acres tract, the following:

north 16 degrees 07 minutes 18 seconds east 341-71/100 feet to a 5/8" capped iron recovered;

north 55 degrees 11 minutes 26 seconds east 55-00/100 feet to a 5/8" capped iron recovered;

north 31 degrees 53 minutes 48 seconds east 100-75/100 feet to a corner from which a 3" pipe fence post bears north 82 degrees-23 minutes-09 seconds east 0-58/100 of a foot;

north 00 degrees 15 minutes 35 seconds east 151-96/100 feet to a corner from which a 3" pipe fence post bears south 04 degrees-39 minutes-16 seconds west 0-57/100 of a foot;

north 14 degrees 29 minutes 38 seconds west 86-78/100 feet to a corner from which a 3" pipe fence post bears south 42 degrees-54 minutes-10 seconds west 0-75/100 of a foot;

north 26 degrees 00 minutes 24 seconds east 213-87/100 feet to a corner from which a 3" pipe fence post bears north 56 degrees-16 minutes-59 seconds east 0-59/100 of a foot;

north 68 degrees 51 minutes 49 seconds east 308-55/100 feet to a corner from which a 3" pipe fence post bears north 42 degrees-46 minutes-31 seconds east 0-49/100 of a foot;

north 77 degrees 25 minutes 27 seconds east 592-93/100 feet to a corner from which a 3" pipe fence post bears north 59 degrees-16 minutes-31 seconds east 0-37/100 of a foot;

north 84 degrees 42 minutes 20 seconds east 89-19/100 feet to a 3" pipe fence post;

south 71 degrees 25 minutes 04 seconds east 113-66/100 feet to a 3" pipe fence post;

south 54 degrees 41 minutes 21 seconds east 98-43/100 feet;

south 52 degrees 03 minutes 33 seconds east 217-10/100 feet to a corner from which a 3" pipe fence post bears south 14 degrees-02 minutes-11 seconds west 0-55/100 of a foot;

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Field notes for:(continued)

south 26 degrees 24 minutes 34 seconds east 358-22/100 feet to a corner from which a 3" pipe fence post bears south 17 degrees-16 minutes-05 seconds west 0-64/100 of a foot;  
 south 41 degrees 41 minutes 26 seconds east 288-99/100 feet to a corner from which a 3" pipe fence post bears south 28 degrees-37 minutes-55 seconds east 0-58/100 of a foot;  
 north 64 degrees 17 minutes 41 seconds east 894-33/100 feet to a 5/8" capped iron recovered  
 in the east line of said 230-854/1000 acres tract, and in the westerly line of said F. M. Highway No. 1220.

Thence southeasterly, along the east line of said 230-854/1000 acres tract, and the westerly line of said F. M. Highway No. 1220, the following:

south 28 degrees 33 minutes 38 seconds east 652-21/100 feet to a 5/8" capped iron recovered at the beginning of a curve to the right having a radius of 2814-50/100 feet; along said curve to the right an arc length of 713-07/100 feet to a 5/8" capped iron recovered at its end. The long chord of said 713-07/100 feet arc is south 21 degrees 17 minutes 21 seconds east 711-16/100 feet.  
 south 14 degrees 00 minutes 20 seconds east 109-56/100 feet to the place of beginning and containing 157-540/1000 acres, of which approximately 148-987/1000 acres lies within said GANGARA SURVEY, and 8-553/1000 acres lies within said HUNT SURVEY.

Surveyed on the ground January 21, 2021.

**BROOKES BAKER SURVEYORS**  
 TBPLS FIRM NO. 10092800

*Alan W. Hickey*

Alan W. Hickey

