FIRST AMENDMENT TO DECLARATION
OF COVENANTS, RESTRICTIONS, CONDITIONS
ASSESSMENTS, CHARGES, SERVITUDES, LIENS,
RESERVATIONS AND EASEMENTS
FOR

LAKE POINTE at THE CROSSING

(A Subdivision within THE CROSSING, a Master Planned Community)

STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF SMITH §

WHEREAS, WERNER-TAYLOR LAND & DEVELOPMENT, L.P., a Texas limited partnership (the "Developer"), by that certain instrument entitled "Declaration of Covenants, Restrictions, Conditions, Assessments, Charges, Servitudes, Liens, Reservations and Easements," filed of record in Clerk's File No. 2012-R00052577, Official Public Records of Smith County, Texas, imposed on the following described property all those certain covenants, conditions, restrictions, easements, charges and liens therein set forth (collectively referred to as the "Declaration"):

> All that certain 6.145 acre portion of land located within THE CROSSING, as specifically set forth on Plat recorded in Cabinet E, Slide 275-D, Official Public Records of Smith County, Texas, and referenced on said Plat as "Lake Pointe at The Crossing" and;

WHEREAS, Developer is still the present owner of property located within Lake Pointe at The Crossing, and thus has the authority and right to amend the Declaration, and does in fact wish to amend the Declaration as set forth below.

NOW, THEREFORE, the undersigned Developer hereby amends the Declaration as follows:

1. **Section 4.02 (i) is hereby amended to read as follows:**

Fencing/Gates. All fencing/gates must be installed level with the ground unless a substantial elevation change requires a different installation. This must be approved by the Architectural Control Committee prior to installation. All fencing must be approved in writing by the Architectural Control Committee prior to installation.

1. The following rear lot line fence types are allowed:

a. Lots 1-9 - Ornamental iron or equivalent, with stone columns on the lot corners only. The ornamental iron and columns must match that of the development. No other type of fencing is allowed.
b. Lots 10-20 - Ornamental iron or equivalent with stone columns that match that of the development on the lot corners only. No other type of fencing is allowed.
c. Lots 21-24 - Ornamental iron or equivalent, with stone columns that match that of the development. Stone column spacing shall also match that of the development (32 feet) with columns required on the lot corners. No other type of fencing is allowed.
d. Lots 25-28 – a) Ornamental iron or equivalent, with stone columns on the lot corners. The ornamental iron and columns must match that of the development; No other type of fencing is allowed.

2. The following side lot line fence types are allowed:

a. Ornamental iron or equivalent that match the current fence in the development;
b. Ornamental iron or equivalent that match the current fence in the development with columns on the front that would match the dwelling unit.

3. All front gates visible from a public right-of-way must be anchored by ornamental iron posts, stone columns that match the development or columns that match the Dwelling Unit architecture. All gates must be approved by the ACC prior to installation.

IN WITNESS WHEREOF, the undersigned Developer has executed this instrument to be effective upon filing of record in the Official Records of Smith County, Texas.

WERNER-TAYLOR LAND & DEVELOPMENT, L.P., a Texas limited partnership

By: WERNER-TAYLOR MANAGEMENT, LLC,

a Texas limited liability company,
Its General Partner

By:_____
MICHAEL WERNER, President

STATE OF TEXAS §

§
COUNTY OF SMITH §

This instrument was acknowledged before me on this _____ day of _____, 2015 by MICHAEL WERNER, President of WERNER-TAYLOR MANAGEMENT, LLC, a Texas limited liability company, General Partner of WERNER-TAYLOR LAND & DEVELOPMENT, L.P., a Texas limited partnership, on behalf of said limited partnership.

_____
NOTARY PUBLIC, STATE OF TEXAS

WHEN RECORDED RETURN TO:

Mr. Michael J. Werner
Werner-Taylor Land & Development, L.P.
7266 Crosswater
Tyler, Texas 75703

FORMS\Lake Pointe at The Crossing First Amendment

DECLARATION OF COVENANTS, RESTRICTIONS, CONDITIONS, ASSESSMENTS, CHARGES, SERVITUDES, LIENS, RESERVATIONS AND EASEMENTS FOR

LAKE POINTE AT THE CROSSING

A Subdivision within THE CROSSING, a Master Planned Community

This DECLARATION OF COVENANTS, RESTRICTIONS, CONDITIONS, ASSESSMENTS, CHARGES, SERVITUDES, LIENS, RESERVATIONS AND EASEMENTS FOR LAKE POINTE AT THE CROSSING, hereinafter referred to as the "Declaration," is made on the 25th day of April, 2014 by WERNER-TAYLOR LAND & DEVELOPMENT, L.P., a Texas limited partnership, hereinafter referred to as "Developer."

WITNESSETH:

WHEREAS, Developer, along with SANDRA C. TAYLOR, SANDRA CRANK TAYLOR, TRUSTEE OF THE SANDRA CRANK TAYLOR SPECIAL MARITAL TRUST and WERNER, TAYLOR & WERNER, LLC, a Texas limited liability company, jointly own 172.446 acres, more or less, of real property described on Exhibit "A" which is attached hereto and incorporated herein for all purposes, hereinafter referred to as the "THE CROSSING," which is to be developed as a master planned commercial and residential community;

WHEREAS, Developer owns a 6.145 acre portion within THE CROSSING, as specifically set forth on Plat recorded in Cabinet E, Slide 275D of the Official Public Records of Smith County, Texas, as may be amended from time to time, hereinafter referred to as the "Property"

WHEREAS, in order to enable Developer to implement a general plan of development and accomplish the development of the Property as part of commercial and residential master planned community of high quality and standards in a consistent manner with continuity and to insure the creation of an architecturally harmonious development, Developer desires to subject the Property to the covenants, conditions, assessments, charges, servitudes, liens, reservations and easements hereinafter set forth herein collectively called the "Covenants"; and

NOW THEREFORE, Developer hereby declares that the Property shall be held, sold and conveyed subject to the Covenants, which shall be deemed as covenants running with the land and imposed upon and intended to benefit and burden each Lot, hereinafter defined.

ARTICLE I – DEFINITIONS

1.01 Definitions. The definitions of certain words, phrases or terms used in this Declaration are set forth on Exhibit "B," which is attached hereto and incorporated herein for all purposes, and elsewhere in this Declaration.

ARTICLE II - COVENANTS BINDING ON PROPERTY AND OWNERS

2.01 Property Bound. From and after the date of recordation of this Declaration, the Property shall be subject to the Covenants, and the Covenants shall run with, be for the benefit of, bind and burden the Property

2.02 Owners Bound. From and after the date of recordation of this Declaration, the Covenants shall be binding upon and inure to the benefit of the Developer, each Owner, and the heirs,

executors, administrators, personal representatives, successors and assigns of the Developer and each Owner, whether or not so provided or otherwise mentioned in the Deed. Each Owner, his heirs, executors, administrators, personal representatives, successors and assigns, expressly agrees to pay, and to be personally liable for, the Assessments provided for hereunder, and to be bound by all of the Covenants herein set forth.

2.03 General. No use shall be permitted on the Property which is not allowed under applicable public codes, ordinances and other laws either already adopted or as may be adopted by the City of Tyler, Texas or other controlling public authorities. Each Owner, occupant or other user of any portion of the Property, shall at all times comply with this Declaration and with any and all laws, ordinances, policies, rules, regulations and orders of all federal, state, county and municipal governments or theft agencies having jurisdictional control over the Property, specifically including, but not limited to, applicable zoning restrictions placed upon the Property as they exist from time to time. IN SOME INSTANCES GOVERNMENTAL REQUIREMENTS MAY BE MORE OR LESS RESTRICTIVE THAN THE PROVISIONS OF THIS DECLARATION. IN THE EVENT A CONFLICT EXISTS BETWEEN ANY SUCH GOVERNMENTAL REQUIREMENT AND ANY REQUIREMENT OF THIS DECLARATION. THE MOST RESTRICTIVE REQUIREMENT SHALL PREVAIL, EXCEPT IN CIRCUMSTANCES WHERE COMPLIANCE WITH A MORE RESTRICTIVE PROVISION OF THE DECLARATION WOULD RESULT IN A VIOLATION OF MANDATORY APPLICABLE GOVERNMENTAL REQUIREMENTS, IN WHICH EVENT THOSE GOVERNMENTAL REQUIREMENTS SHALL APPLY. COMPLIANCE WITH MANDATORY GOVERNMENTAL REQUIREMENTS WILL NOT RESULT IN THE BREACH OF THIS DECLARATION EVEN THOUGH SUCH COMPLIANCE MAY RESULT IN NON-COMPLIANCE WITH PROVISIONS OF THIS DECLARATION. WHERE A GOVERNMENTAL REQUIREMENT DOES NOT CLEARLY CONFLICT WITH THE PROVISIONS OF THIS DECLARATION BUT PERMITS ACTION THAT IS DIFFERENT FROM THAT REQUIRED BY THIS DECLARATION, THE PROVISIONS OF THIS DECLARATION SHALL PREVAIL AND CONTROL. All of The Property shall be developed in accordance with this Declaration as this Declaration may be amended or modified from time to time as herein provided.

ARTICLE III - ARCHITECTURAL CONTROL

3.01 Reservation and Assignment of Architectural Control. The Developer, desiring (i) to provide for the preservation of the values and amenities in and upon the Property and (ii) to subject the Property to the reservation of architectural control hereinafter expressed for the purpose of implementing a general plan of development for the Property to insure the creation of a high quality, architecturally harmonious commercial and residential master planned community in and about LAKE POINTE at THE CROSSING, which general plan of development and reservation of architectural control is for the benefit of the Property, or any part thereof and each Owner, as well as for the benefit of the Developer, hereby reserves the right and all rights to approve or disapprove as to:

(a) compliance with any specific restrictions imposed by Developer or anyone acting on behalf of the Developer with respect to The Property and/or any part thereof;

(b) without limitation, harmony of external, design, adequacy of structural design, location of improvements, allowing and location of exterior lighting, building and landscaping setbacks from property lines, square footage of improvements, height of improvements, driveways, fences, walls, retaining walls and landscaping in relation to surrounding Structures and topography which are now or hereafter may be existing or proposed, including, but not by way of limitation, architectural designs, setbacks, landscaping, color schemes, types and quality of construction materials, quality of workmanship, any and all subdivisions, resubdivisions (where permitted), exterior additions to, changes in, construction, paving, alteration or excavation of the Property or any part thereof (including, but not limited to the trees now located or to be located thereon) and any and all other Permanent Improvements located thereon, either permanent or temporary, including without limitation, additions to, changes in, or alterations to grade, landscaping,

roadways, walkways, signs, exterior lights, walls, fences, buildings, or other Structures or improvements of any type or nature located thereon which any person or entity, including without limitation, governmental and quasi-governmental subdivisions or agencies, seeks to commence, erect, construct, place or maintain upon any Lot, or any part thereof.

3.02 Construction Requests. All requests for approval of any of the items set forth in this Article Ill shall be submitted in writing to the Developer at 1397 Dominion Plaza Suite 120, Tyler, Texas 75703, or at such other address as may from time to time be designated by the Developer, and such request for approval shall be accompanied by complete and specific plans and specifications showing the nature, kind, shape, elevations, height, materials, color, location, landscaping, and other material attributes of the Permanent Improvements, additions, changes, alterations or excavation of a Lot or any part thereof. The Architectural Control Committee shall have no duty to exercise the power of approval or disapproval hereby reserved. The Architectural Control Committee shall have the power and authority to charge an application fee to be submitted with all requests for approval of items as required in this Article III.

3.03 Prior Approval. Without limitation, no building, garage, storage building, fence, wall, sign, exterior lighting, pole, antenna, television or satellite disc or dish, driveway, sidewalk, other walkway, parking lot, mailbox, other Structure, equipment or apparatus or any nature whatsoever, either permanent or temporary, landscaping or Permanent Improvements shall be commenced, erected, constructed, placed or maintained upon any part or portion of the Property, nor shall any exterior addition thereto, change therein or alteration, excavation, subdivision, or resubdivision thereof, including without limitation changes in or alteration of grade, landscaping, roadways, and walkways, be made until the plans and specifications showing the nature, kind, shape, height, materials, color, location, and other material attributes of the same shall have been submitted to and approved in writing by Developer or by an ACC composed of three (3) or more representatives appointed by Developer as to (i) compliance with the Covenants herein contained and (ii) harmony of external design and location in relation to surrounding Structures and topography which are now or hereafter existing or proposed, including, but not by way of limitation, as to architectural designs, setbacks, landscaping, color schemes and construction materials. The plans and specifications must contain the following:

(a) A complete set of construction plans and specifications reasonably satisfactory to the Architectural Control Committee;
(b) A site plan of the Property, showing, with regard to all Permanent Improvements, the nature, exterior color scheme, kind, shape, height, proposed construction and landscaping materials, location of all existing and proposed Improvements with respect to the particular part of the Lot (including all easements and any proposed front, rear, and side setbacks), location with respect to Improvements on adjoining Lots, and the location of driveways;
(c) A grading, clearing and drainage plan for the Lot

The Architectural Control Committee shall promptly review all plans submitted to it and advise the applicant whether the plans are approved, rejected, conditionally approved or held pending receipt of further information within fifteen (15) days after submission.

Non-exercise of the powers hereby reserved by Developer in one or more instances shall not be deemed to constitute a waiver of the right to exercise such power in other or different instances. Likewise, approval of any one set of plans and specifications shall not be deemed to constitute approval of any other or different plans and specifications. In the absence of gross negligence or willful misconduct attributable to Developer or the ACC appointed by Developer, neither Developer nor such ACC shall be liable for the improper enforcement or failure to exercise any of the powers reserved unto Developer pursuant to this Article. The fact that some type of Structure or improvement may be mentioned in this Declaration is not in any manner to be construed as a statement that such type of Structure or improvement will, be allowed on any part or portion of the Property, as the final approval or disapproval for any type of Structure or improvement on any Lot shall is expressly vested solely in the Developer to be exercised at its sole discretion.

3.04 No Liability. In no event shall any approval obtained from the Developer pursuant to the terms of this Declaration be in any manner deemed to be a representation of any nature regarding the structural integrity or safety or engineering soundness of the structure or other item for which such approval was obtained, nor shall such approval represent in any manner compliance with any building or safety codes, ordinances or regulations, nor shall such approval be construed as a representation or warranty as to any matter which is the subject of such approval. The Developer shall not at any time have any liability to any Owner or other person or entity for any decision(s) that are made by the Developer as long as such decision(s) are made by the decision maker without willful and intentional misconduct. Any and all errors or omissions from the plans submitted to the Developer shall be the sole responsibility of the Owner of the real property to which the plans and improvements relate, and the Developer shall have no obligation to check the plans for errors or omissions or to check such plans for compliance with this Declaration, zoning ordinances, laws, building lines, easements or rights-of-way, or any other issue.

3.05 Consent or Approval Requirement. Whenever the consent or approval of the Developer, or the Architectural Control Committee is required under the terms of this Declaration, the Developer and/or the Architectural Control Committee, as applicable, such consent or approval shall not be arbitrarily or unreasonably withheld, delayed or denied.

3.06 Restriction on Commencement of Construction. No construction nor pre-construction (site clearing and tree cutting or trimming, dirt removal, etc.) work of any type, kind or nature may be commenced on any part or portion of any Lot until the Owner has received the written approval of the Developer or Architectural Control Committee as required by this Declaration.

3.07 Commencement and Completion of Construction. If the owner does not commence construction of the Improvements within one (1) year after approval of the plans by the Architectural Control Committee, such approval shall terminate.

3.08 Obligation to Complete Construction of Residence. Once substantial and meaningful construction has commenced on a residential Dwelling Unit on a Lot, the Owner of the Lot agrees to and shall with reasonable diligence and dispatch substantially complete the construction of the residential Dwelling Unit in accordance with the approved plans and specifications within twelve (12) months from the date of the commencement of construction. The determination of whether or not the residential Dwelling Unit has been substantially completed in accordance with the approved plans and specifications shall be made solely and exclusively by the Architectural Control Committee, whose decision shall be final and non-appealable with respect thereto. If any Lot owner does not, within said twelve (12) month time period, substantially complete the construction of the residential Dwelling Unit in accordance with the plans and specifications, the Owner agrees to and shall pay to the Developer a sum and amount equal to one percent (1%) of the gross sales price paid by the Owner to the Developer at Closing for the Lot (i) on the first day following the expiration of said twelve (12) month period, and (ii) on the same day of each month thereafter until the Owner substantially completes the construction of the residential Dwelling Unit on the Lot in accordance with the approved plans and specifications.

3.09 Fees for Review of Plans and Specification. The Architectural Control Committee may charge and collect a reasonable fee for the examination of any plans and specifications submitted for approval pursuant to these Covenants. The Architectural Control Committee shall have the right to employ engineers, attorneys, architects and other professionals or consultants to assist the Architectural Control Committee in the evaluation of any plans and specifications submitted for approval and may charge the Owner for any reasonable costs that exceed the current application fee that is published at the time of the submission. Any such charge levied by the Architectural Control Committee shall be in accordance with the fee schedule adopted by the Architectural Control Committee and then in effect and shall be due and payable when plans are submitted for review to the Architectural Control Committee.

3.10 Finality of Determinations. The authority reserved by the Developer in this Declaration has intentionally been very broad and all encompassing. Therefore, no decision of the Developer may in

any manner be avoided, challenged, reversed, rendered, modified, changed or nullified in any manner by any person, tribunal, court or other entity, except by the Developer itself, as long as the decision of the Developer was made without willful and intentional misconduct on the part of the Developer, even if the decision of the Developer may seem to some as arbitrary.

3.11 Developer's Right to Extend Time Periods. The Developer, in its sole and exclusive discretion, shall have the unilateral right, but not the obligation, exercisable at any time, to waive or extend the twelve (12) month time period set forth in Paragraph 3.07 and 3.08 above.

ARTICLE IV - GENERAL RESTRICTIONS

4.01 Maintenance.

(a) Developer Land. The Developer or its duly delegated representative, shall maintain and otherwise manage all Developer Land to a reasonable standard of care in providing for the repair, management, and maintenance of the Developer Land.

(b) Assessment of Costs of Maintenance and Repair of Utilities or Developer Lands. In the event that the need for maintenance or repair of Developer Land or utilities within the Property is caused by any Owner, his agents, tenants, family, guests or invitees, the cost of such maintenance or repairs, at Developer's option, shall be paid by such Owner.

4.02 General Restrictions.

(a) Single-Family Residential Purposes, All Lots in the Property shall be used only for single-family residential purposes. No noxious or offensive activity of any sort shall be permitted, nor shall anything be done in or about any Lot which may be or become an annoyance or nuisance to the neighborhood. No Lot shall be used for any commercial, business or professional purposes. No Dwelling Unit shall be rented by an Owner for transient or hotel purposes, which shall be defined as rental for any period less than thirty (30) days, nor shall, less than the entire Dwelling Unit be rented or leased. Any lease shall be in writing and shall be made subject to this Declaration and the rules and regulations promulgated from time to time by the Homeowners' Association. Any such lease shall expressly provide that the violation of any provision of this Declaration and/or of any rule or regulation promulgated by the Homeowners' Association shall be a default pursuant to the terms of the Lease.

(b) Type of Structures. No building shall, be erected, altered or permitted to remain on any Lot in the Property other than one (1) single-family residential dwelling not to exceed two and one-half (2-1/2) stories in height. Each such Dwelling Unit shall have a private garage which may or may not be detached from the main residential Structure and which shall be fully enclosed and covered. The Architectural Control Committee (ACC) shall specifically approve the direction in which any garage may open. Each garage shall have the capacity to shelter at least two (2) automobiles and shall be equipped with an automatic door opener. Any detached Structure from the main residential building must use similar materials and be of similar style to that of the main building Structure. All detached Structures must be approved by the ACC.

(c) Minimum Square Footage. The living area of each residence (exclusive of porches, patios, garage, terraces or driveways) on each Lot shall be a minimum of 1,500 square feet.

(d) Setbacks. As to any Lot, except with respect to walls, fences, planters, hedges or other screening material, no Permanent Improvement or any part thereof may be nearer to any side street line than the side setback line established per the dimensional standards of The City of Tyler. No Dwelling Unit may be located nearer to the rear property line of the Lot than the rear setback line established per the dimensional standards of The City of Tyler. No Permanent improvement may be located on any Lot nearer to the front street line or any adjacent Lot line of such Lot than the setback established per the dimensional standards of The City of Tyler. The Developer reserves the right to change setback lines with

respect to Developer Land as needed with City of Tyler approval. The side setbacks shall vary according to the setback plan approved at The City of Tyler. The side setbacks are as follows:

a. On some lots as set forth on the approved setback plan at The City of Tyler, there will be a ten (10) foot building setback line, and no Dwelling Unit or other Permanent Improvement shall be located on any Lot nearer to such side Lot line than ten (10) feet. On the other side of the Lot, the side of the Lot opposite the ten foot building setback line (the "**Zero Lot Line Side**"), there shall be no building setback and the Dwelling Unit may touch the boundary line of the Lot on such other side. For purposes of this section 4.02, roof overhangs, eaves, open porches, and any other temporary or permanent structures (other than gutters and downspouts) that are attached to the Dwelling Unit shall not encroach over the boundary line of the Owner's Lot. A maximum encroachment of six (6) inches is allowed for gutters and downspouts so long as the eaves or roof overhangs in which the gutters and downspouts are attached do not encroach over the boundary line of the Lot.
b. On some lots as set forth on the approved setback plan at The City of Tyler, there will be a five (5) foot building setback line, and no Dwelling Unit or other Permanent Improvement shall be located on any Lot nearer to such side Lot line than five (5) feet. For purposes of this section 4.02, roof overhangs, eaves, open porches, and any other temporary or permanent structures (other than gutters and downspouts) that are attached to the Dwelling Unit shall not encroach over the setback line of the Lot. A maximum encroachment of six (6) inches is allowed for gutters and downspouts so long as the eaves or roof overhangs in which the gutters and downspouts are attached do not encroach over the six (6) inches.

(e) Zero Lot Line Easement. The Owner of each lot that has a **Zero Lot Line Side** (the "**Easement Holder**") shall have an easement appurtenant over, across, on and under the Lot (the "**Zero Adjacent Lot**") located immediately next and adjoining the Zero Lot Line Side of the Easement Holder's Lot as follows:

1. The easement shall be ten (10) feet in width, and the easement shall be located within the ten (10) foot side building setback line of the Zero Adjacent Lot as provided in Section 4.02 (a) above.
2. The easement shall run from the front boundary line of the Zero Adjacent Lot to the back boundary line of the Zero Adjacent Lot.
3. The easement shall be used solely for allowing the Easement Holder, and his contractors, agents and representatives, to access the Zero Adjacent Lot for the purposes of constructing, performing reasonable maintenance, reasonable repair, remodeling, or reconstruction of the Dwelling Unit and other Permanent Improvements upon the Easement Holder's Lot.

(f) Walls, Fences Hedges and Other Screening Material. As to any Lot, the following shall apply, except as hereinafter provided: No wall, fence, planter, hedge or other screening material in excess of two (2) feet high shall be erected or maintained nearer to the front Lot line than the front building setback line, nor on corner Lots nearer to the side Lot line than the building setback line parallel to the side street. No rear or side fence, wall, hedge or other screening material other than those built by Developer shall be more than six (6) feet high. Notwithstanding the foregoing, no wall, fence, planter, hedge or other screening material shall be permitted to unduly interfere with the view from any other Lot, as determined by the ACC in its sole discretion.

Lots located at street intersections shall be landscaped so as to permit safe sight across the street corners. No Structure shall be placed or permitted to remain where it would create a traffic or sight line problem.

(g) Construction Materials, All materials used in the construction of the exterior of any Dwelling Unit or other Structure must be approved by the ACC before commencement of construction. Any exposed exterior walls, exclusive of doors, windows and gable areas shall not be less than seventy percent (70%) brick, brick veneer, stone or stone veneer with all other exterior construction materials to be of standard grade and quality, with the ACC having the authority to approve plaster/stucco in lieu of

brick, brick veneer, stone or stone veneer, if plaster/stucco is appropriate in the ACC's sole opinion. All solar collectors and panels to be incorporated into the design of any Dwelling Unit must receive specific approval from the ACC prior to commencement of construction. Only new construction materials shall be used (except for used brick if and as approved by the ACC on a case by case basis). No concrete blocks shall be used in construction, unless the blocks are covered up by the final exterior finish material. All Dwelling Units shall be built on a slab, solid concrete beam foundation (provided no such slab shall be exposed above the ground level), or a pier and beam foundation approved by the ACC.

(h) Walks. Walks from the street or driveway to the front of the Dwelling Unit shall have a minimum width of three feet (3') and shall be constructed entirely of concrete (except however, other materials may be used with the prior written consent of the ACC). Layout of said walks shall be curvilinear in nature, and approved by the ACC prior to installation. All Lots shall provide a concrete walk with minimum width of four feet (4') installed per City of Tyler requirements. Any Lot that has a side Lot line adjacent to a street (public or private) shall provide a concrete walk with minimum width of four feet (4') installed per City of Tyler requirements.

(i) Fencing/Gates. All fencing/gates must be installed level with the ground unless a substantial elevation change requires a different installation. This must be approved by the Architectural Control Committee prior to installation. All fencing must be approved in writing by the Architectural Control Committee prior to installation.

1. The following rear lot line fence types are allowed:

a. Lots 1-9 - Ornamental iron or equivalent, with stone columns on the lot corners only. The ornamental iron and columns must match that of the development. No other type of fencing is allowed.
b. Lots 10-20 - Double sided cedar wood fence with a cap with stone columns on the lot corners. The stone columns must match that of the development. No other type of fencing is allowed.
c. Lots 21-24 - Ornamental iron or equivalent, with stone columns that match that of the development. Stone column spacing shall also match that of the development (32 feet) with columns required on the lot corners. No other type of fencing is allowed.
d. Lots 25-28 – a) Ornamental iron or equivalent, with stone columns on the lot corners. The ornamental iron and columns must match that of the development; b) Double sided cedar wood fence with a cap is also allowed with stone columns on the lot corners. No other type of fencing is allowed.

2. The following side lot line fence types are allowed:

a. Ornamental iron or equivalent that match the current fence in the development;
b. Double sided cedar wood fence with a cap. If this fence type is installed then the front corner of the fence line (closest to road), must be anchored by a stone column that matches the Dwelling Unit architecture or the stone columns of the development. This must be approved by the ACC prior to installation.

3. All front gates visible from a public right-of-way must be anchored by ornamental iron posts, stone columns that match the development or columns that match the Dwelling Unit architecture. All gates must be approved by the ACC prior to installation.

(j) Re-Subdivision. No Lot shall be further subdivided and no portion less than all of any such Lot, or any easement or any other interest therein, shall be conveyed by any Owner unless approved in writing by the Developer. The Developer reserves the right to re-subdivide as it is necessary.

(k) Change in Intended Use. No portion of the Property may be developed or redeveloped otherwise than in accordance with its original intended use without the prior written authorization of the Developer. In connection with Developer's authorization to allow any Owner to develop or redevelop any portion of the Property otherwise than in accordance with its original intended use, Developer shall have the right to further subject the Property to additional and/or different covenants, conditions, assessments,

charges, servitudes, liens, reservations and easements, either by amending this Declaration or by filing a Subsidiary Declaration.

(l) Water Wells. At no time shall the drilling, usage, or operation of any water well be permitted on any part or portion of the Property. The Developer reserves the right to drill water wells on any common property as needed to enhance the common areas.

(m) Septic Tanks and Sewage Disposal. No septic tank or other means of sewage disposal may be installed unless previously approved in writing by all governmental authorities having jurisdiction with respect thereto, and by the Developer. No outside toilets of any kind are permitted, and no installation of any type of device for disposal of sewage shall be allowed which would result in raw or untreated or unsanitary sewage being carried into any body of water or water source.

(n) Grasses. With respect to any Lot, no Owner shall grow or permit the growth of any variety of grass or other vegetation, which is not on the approved list of the Architectural Control Committee.

(o) Driveways and Curb Breaks. As to any portion of the Property, all driveways shall be entirely of concrete (except however, other materials may be used with the prior written consent of the Architectural Control Committee). The concrete finish and color on that portion of the driveway which is within five (5) feet of the back of the street curb, shall match the finish and color of the street curb. No driveway or other roadway may be constructed on any lot in such a manner as to furnish access to any other lot without the prior written consent of the Architectural Control Committee. All curb breaks must be saw cut.

(p) Utilities. Each and every Dwelling Unit shall be required to be connected to the water distribution system and sanitary sewer collection system in the Property as soon as such utilities are available in the easements adjacent to or within the respective Lot upon which the Dwelling Unit is located. Individual underground electrical service drops must be installed to each Dwelling Unit. Each Owner shall comply with the requirements of the applicable utility company regarding such underground service installations, including without limitation the payment of any lawful charges which might be incurred for the installation of the underground service as set forth in the applicable utility company rules, regulations and terms and conditions of service, as the same may be amended from time to time without notice.

(q) Utility and Service Lines. No gas, electric power, telephone, water, sewer, cable television, or other utility or service lines of any nature or kind shall be placed, allowed or maintained upon or above the ground on any part or portion of the Property, except to the extent, underground placement thereof may be prohibited by law or would prevent the subject line from being functional. The foregoing shall not prohibit service pedestals and above-ground switch cabinets and transformers where required. All utility lines from each Dwelling Unit to the common utility lines i.e. (water, gas, sewer, power, etc., utility lines which carry any utility to or sewage from such Dwelling Unit) shall be maintained by the Owner of such Dwelling Unit at his own cost and expense.

(r) Mailboxes. Each lot shall have a mailbox of a design and material that is similar to the architectural style of the Dwelling Unit, subject to approval by the Architectural Control Committee.

(s) Approval of Builder. Owner shall not permit any builder to commence construction of a Dwelling Unit on owner's Lot or Lots until and unless such builder (A) appears on Developer's approved builders list, or (B) obtains the written consent of Developer's Architectural Control Committee.

(t) Easements. Easements for installation and maintenance of perimeter walls, fences, utilities, and drainage facilities are reserved as shown on the recorded plat(s) of the Property, or as filed in the Official Public Records of Smith County, Texas. Within the easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of fences and utilities, or which may change the direction of flow of drainage channels

in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each part of the Property and all improvements located therein shall be maintained continuously by the Owner of the part of the Property, except for those improvements for which a public authority or utility company is responsible.

(u) Landscape Easements. Easements for landscaping are reserved as shown on the recorded plat(s) of the Property, or as filed in the Official Public Records of Smith County, Texas. Within these easements, no structure, planting or other material shall be placed which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels into the easements. The easement area of each part of the Property and all improvements located therein shall be maintained continuously by the Subdivision Association, except for those improvements for which a public authority or utility company is responsible.

(v) Automated Meter Reader. Developer reserves the right to install an Automated Meter Reader (AMR) in connection with any Lot, at Developer's sole discretion. An AMR, as used herein, is equipment which enables gas, water and/or electric meters to be read electronically via telephone lines. In the event Developer does install AMRs within the property, then the plans and specifications for each Dwelling Unit shall include the gas, water and electrical connections, conduits, wiring, equipment and all other appurtenances or accessories necessary to adapt the Dwelling Unit for use with an AMR. Furthermore, each owner shall allow the City of Tyler and or utility companies to maintain in good operating condition the AMR and any conduits, wiring, equipment or other accessories or appurtenance related to the AMR but in the event that the City of Tyler and or the utility companies do not perform said maintenance then said owner shall perform said maintenance. All AMRs must not be visible from the street.

(w) Utility and Service Lines. No gas, electric power, telephone, water, sewer, cable television, or other utility or service lines of any nature or kind shall be placed, allowed or maintained upon or above the ground on any Lot, except to the extent, underground placement thereof may be prohibited by law or would prevent the subject line from being functional. The foregoing shall not prohibit service pedestals and above-ground switch cabinets and transformers where required. All utility lines from each Dwelling Unit to the common utility lines i.e. (water, gas, sewer, power, etc., utility lines which carry any utility to or sewage from such Dwelling Unit) shall be maintained by the Owner of such Dwelling Unit at his own cost and expense.

(x) Water Bodies. Unless otherwise designated by the ACC in writing, lakes, springs, and streams within the Subdivision shall be aesthetic amenities only. Skiing, swimming, and motor boating shall not be allowed. Fishing will be permitted on the lake from any lake Lot along with a designated area for all other non-lake Lot owners. Lot owner guests must be accompanied by a Lot owner at all times to fish in the designated areas. The ACC, or representatives thereof, shall not be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of this water body within the Subdivision. No docks, piers or other Structures shall be constructed on or over this water body, unless approved in writing by the Developer.

(y) Irrigation. No sprinkler or irrigation systems of any type that draw upon water from streams, ponds, lakes, wetlands or other surface water within the property shall be installed, constructed or operated within the property unless approved in writing by the ACC. However the Developer shall have the right to draw water from such sources for the purpose of irrigating the Common Property. All Lots are required to have underground sprinkler systems that will support healthy growth of grass and other landscaped areas. All lots that border Crosswater must irrigate to edge of curb.

(z) Trees. Without the express written consent of Developer, no tree shall be removed from any Lot or portion of the Property located within any greenbelt or common area as declared by the Developer and shown on recorded plats on the Map and Plat. All trees located on any Lot that are of three (3) inches or greater in diameter may not be cut or removed without prior written consent of the ACC. In the event the ACC gives consent to cut trees that are three inches or greater in diameter on an

Owner's Lot (outside the Dwelling Unit site plan), the Lot Owner may be required by the ACC to replace some or all of the trees.

(aa) Landscaping Requirements. Each Owner of a Lot or representative thereof shall be required to submit a landscape plan per the Lake Pointe Design Guidelines to the Architectural Control Committee for approval. These Design Guidelines may be amended from time to time at the discretion of the Developer and/or the Architectural Control Committee. In the event of any conflict between the Lake Pointe Design Guidelines and the terms and provisions of this Declaration, this Declaration shall control. Specific requirements may be imposed on specific Lots as deemed necessary by the Architectural Control Committee. All planting and landscape materials shall comply with approved plant and material list as maintained by the Architectural Control Committee.

(bb) Transition Landscape Zone. . A transition landscape zone shall be required to provide a soft, informal transition between existing native vegetation areas and newly developed landscaping. The limits shall be consistent with the building setbacks established for said Lot, and receive minimal disturbance between property line and setback established. Any variation thereof requires written approval of Architectural Control Committee. The landscape design criteria herein are influenced by the approach of maintaining the overall preservation of each development site.

(cc) Pools, Water Features, Landscape Structures. In general, pools and water features should be designed to blend with the surrounding landscape and provide minimal disturbance to adjacent Lots and common areas. Landscape Structures such as pergolas, arbors, gazebos, porte-cocheres, greenhouses, and/or decks should be consistent with associated building materials of Dwelling Unit. All such features shall be located within the building setback, and require approval of the Architectural Control Committee prior to commencement of construction.

(dd) Roofs and Drainage. All dwelling units must be constructed of roofing material that is approved in writing by the ACC. All Dwelling Units shall include drainage Structures including but not limited to gutters, downspouts and underground pipes, as shall be necessary to collect the rainfall from eighty percent (80%) of said Dwelling Unit's roof area and carry the water from the house, underground, to the street curb so that the rain water will flow into a street without draining across the property of any contiguous Lot owner. Any Lot that is adjacent to a water body may collect the rainfall from the house and carry the water from the house, underground, to the water body so that the rain water will flow under the water. The pipe must be laid so that the end of the pipe is enclosed in a drain box that is laid flush with the ground at waters edge so that the rain water will flow from the box into the water. Should final grade not accommodate appropriate slope to street or drainage easement, sump pumps shall be used to avoid discharge on adjacent Lots.

(ee) Site Grading and Drainage. All site related grading shall provide smooth transitions from built elements to natural or final grade, and provide positive drainage of site without discharge to adjacent lots. Retaining walls shall be used where excessive slopes are subject to erosion or appropriate cover cannot be maintained. Erosion control measures shall be implemented throughout construction, to prevent excessive run-off and construction site erosion problems.

(ff) Site Maintenance and Protection. Owner is responsible for the overall maintenance of newly developed landscape and perimeter of Lot, providing a natural yet well-kept look. Each Owner or representative thereof is responsible for avoiding damage to existing development, including roadways, infrastructure, signage, landscaping, and adjacent development sites. Any damage incurred in result of development of site, shall be repaired to prior existing condition at Lot Owner's expense.

4.03 Use Restrictions.

(a) All Lots within the Property are hereby restricted as follows:

(1) Antennas. No exterior television, radio or other antenna of any type shall be placed, allowed or maintained upon any Lot or Dwelling Unit without prior written approval and authorization of Subdivision or Master Association. Eighteen (18) inch satellite dishes are permitted but must not be visible from the street.

(2) On Street Parking. On street parking is restricted to approved deliveries, pick-up or short-time guests and invitees and shall be subject to such reasonable rules and regulations as shall be adopted by the Developer or the Subdivision Association. Motor vehicles owned or in the custody of any Owner can be parked only in the driveway located upon or pertaining to such Owner's Lot, or in parking areas designated by the Subdivision Association, unless otherwise authorized by the Subdivision or Master Association. No buses, rental vans, campers, recreational vehicles, or trucks having a carrying capacity in excess of ¾ tons or designed for commercial purposes shall be placed, allowed, or maintained on any Lot except with the prior written approval and authorization of the Subdivision or Master Association in areas attractively screened or concealed (subject to all required approvals as to architectural control) from view of neighboring property, pathways and streets.

(3) Site Maintenance, Garbage & Trash Collection. All Owners and builders shall comply with the portions of the Design Guidelines regulating construction activities. All garbage and yard waste shall be kept in plastic bags, other containers, or otherwise bundled as required by and meeting the specifications of the city. Each Owner shall observe and comply with any and all regulations or requirements promulgated by the Subdivision or Master Association, ACC and/or the city in connection with the screening, storage and removal of trash and garbage. No Lot or any portion of the common property or any public right-of-way shall be used or maintained as a dumping ground for rubbish, trash or garbage. If more than seven (7) days after prior written notice an Owner shall fail to control weeds, grass or other unsightly growth; removed trash, rubble, building and construction debris; exercise reasonable care or conduct to prevent or remedy an unclean untidy or unsightly condition, then in such event the Developer, ACC and/or Subdivision Association shall have the authority and right to go onto the Lot in question for the purpose of mowing and cleaning such Lot and shall have the right to assess and collect from the Owner in question a reasonable charge for mowing or cleaning such Lot on each respective occasion.

(4) Storage. No exterior storage of any items of any kind shall be permitted except with prior written approval and authorization of the ACC or Subdivision Association. Any such storage as approved and authorized shall be in areas attractively screened or concealed (subject to all required approvals as to architectural control) from view from neighboring property, pathways and streets. This provision shall apply without limitation, to wood piles, camping trailers, boat trailers, travel trailers, boats, mobile homes and unmounted pickup camper units. Also without limitation, no automobile, truck or other vehicle, regardless of ownership, age, condition or appearance shall remain on any Lot in any manner which could be construed as being stored, undergoing restoration, neglected, abandoned, or otherwise not in frequent use except pursuant to written approval and authorization of the ACC or Subdivision Association.

(5) Noise. No radio, stereo, broadcast or loud speaker units and no amplifiers of any kind shall be placed upon the outside, or be directed to the outside of any Dwelling Unit without authorization by the Subdivision or Master Association.

(6) Drying Yard. The drying of clothes in public view is prohibited.

(7) Outside lighting. No outside lighting (other than porch lighting, patio lighting and indirect lighting) shall be placed, allowed or maintained on any Lot without authorization of the Subdivision or Master Association.

(8) Animals. No animals, reptiles, fish or birds of any kind shall be raised, bred or kept on any Lot except as approved by the Subdivision or Master Association; provided, however, dogs, cats, birds or fish may be kept therein as household pets so long as, in the discretion of the Subdivision or Master Association, such pet is not, or does not become, a nuisance, threat, or otherwise objectionable to other Owners.

(9) Diseases and Insects. No Owner shall permit any material or condition to exist upon any Lot which shall induce, breed or harbor plant disease or noxious insects.

(10) Sidewalk Encroachments and Site Distance at Intersections. No tree, shrub, or plant of any kind on or about any portion of a Lot shall be allowed to overhang or otherwise encroach upon any sidewalk or any other pedestrian way from ground level to a height of seven (7) feet without authorization by the ACC or Subdivision Association.

(11) Burning and Incinerators. No open fires or burning shall be permitted on any Lot at any time and no incinerators or like equipment shall be placed, allowed, or maintained upon any Lot. The foregoing shall not be deemed to preclude the use, in customary fashion, of outdoor residential barbecues or grills.

(12) Signs. No exterior signs or advertisements of any type may be placed, allowed or maintained on any Lot without prior written approval and authorization of the Subdivision or Master Association, except that mailboxes, residential nameplates and “for sale” and “for rent” signs may be placed and maintained in conformity with such common specifications; including without limitation, reasonable restrictions as to size, as may be adopted by the Subdivision or Master Association.

(13) Air Conditioners and Heaters. No window or wall type air conditioner or heater shall be permitted to be used, erected, placed or maintained on or in any Dwelling Unit.

(14) Repairs. No repairs of any detached machinery, equipment or fixtures, including without limitation motor vehicles, shall be made upon any portion of any Lot within view of neighboring property, pathways and streets, without authorization by the Subdivision or Master Association.

(15) Machinery, Fixtures and Equipment. No machinery, fixtures or equipment of any type, including without limitation, heating, air conditioning or refrigeration equipment and clotheslines, shall be placed, allowed or maintained upon the ground on any Lot, except with the prior written approval and authorization by the Subdivision or Master Association and then only in areas attractively screened or concealed (subject to all required approvals as to architectural control) from the view of neighboring property, pathways and streets; and no such machinery, fixtures, or equipment shall be placed, allowed or maintained anywhere other than on the ground (such as on the roof) except if screened or concealed (subject to all required approvals as to architectural control) in such manner that the screening or concealment thereof appears to be part of the integrated architectural design of the Dwelling Unit and does not have the appearance of a separate piece or pieces of machinery, fixtures, or equipment.

(16) Oil, Gas, and Mineral Activity. No oil exploration, drilling, development or refining operation and no quarrying or mining operations of any kind, including oil wells, service tanks, tunnels, or mineral excavations or shafts shall be permitted upon or under any Lot; and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Lot.

(17) Firearms and Weapons. No portion of any lot or property shall be used for hunting or for the discharge of any firearm.

(18) Motor Vehicles. The operation of any and all motorized vehicles within the Property shall be subject to such rules and regulations as shall be established by Developer from time to time.

(19) Lease Agreements. All lease agreements between an Owner and his tenant shall be in writing and shall provide that the terms of such lease are subject and subordinate to the terms of this Declaration. Such lease agreements shall further provide that a default under any of the Covenants contained herein shall constitute a default under such lease.

(20) Misuse and Mismanagement. No Lot shall be maintained or utilized in such a manner, as in the discretion of the Subdivision or Master Association, to present an unsightly appearance (including but not limited to clothes drying within public view), or as to unreasonably offend the morale of or as to constitute a nuisance or unreasonable annoyance to, or as to endanger the health of, other Owners or residents of the Land; and no noxious or, otherwise offensive condition or activity shall, be allowed to exist or be conducted thereon.

(21) Violation of Statutes, Ordinances, and Regulations. No Lot shall be maintained or utilized in such manner as to violate any applicable statute, ordinance, or regulation of the United States of America, the State of Texas, the County of Smith, the City of Tyler, or any other governmental agency or subdivision having jurisdiction in the premises.

(22) Violation of Rules or of Covenants. Conditions or Restrictions. No portion of any lot may be maintained or utilized in violation of this Declaration or of the rules and regulations of the Developer or of any covenants, conditions, or restrictions applicable to and binding upon said lot.

ARTICLE V. MAINTENANCE BY THE ASSOCIATION AND OWNER

5.01 Maintenance by Association.

The maintenance of the lawn and landscaping of the Lots and the Common Area Property in the Subdivision shall be the obligation of the Subdivision Association as specified herein. The Subdivision Association will be responsible for maintaining the lawns and the plant beds of each Lot and all the Common Area Property in good order and attractive condition. The following maintenance items are included:

(1) Lawn mowing and trimming
(2) Tree and shrub pruning as needed for maintenance and health of all trees;
(3) Fertilizing, mowing, weeding and replacement as necessary to maintain all landscaping and vegetation;
(4) Prompt removal of fallen or uprooted trees, branches, or shrubs and repair of other damage to trees or large shrubs caused by storms or high winds;
(5) Repair broken sprinkler lines or sprinkler heads within the Lot or Common Areas;
(6) Keeping all parking areas, driveways, sidewalks, and roads free from trash and litter, attractive and in good condition;
(7) Any other maintenance or repair item the Architectural Control Committee in its sole reasonable good faith discretion deems necessary or desirable.

5.02 Improper Maintenance by Subdivision Association as to Associations Obilgations in Article 5.01

In the event any portion of the Lots or Common Area Property is in the reasonable judgment of the Architectural Control Committee so maintained by the Subdivision Association thereof (i) as to present a public or private nuisance, (ii) as to substantially detract from the appearance or quality of LAKE POINTE at THE CROSSING, or (iii) as to in any or (iii) as to in any manner fail to comply with any of these Covenants, the Architectural Control Committee, as applicable, may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto deliver written notice

thereof to the Subdivision Association that unless corrective action (such corrective action to be stated in the written notice to the Subdivision Association) is taken within ten (10) days from the date of such written notice to remedy the situation, the Architectural Control Committee will cause such action to be taken at such Subdivision Association's cost and expense to remedy the situation, including entry upon the Owner's Lot or Common Area Property, if necessary. Any such entry upon a Lot or Common Area Property by the Architectural Control Committee or anyone at the direction of the Architectural Control Committee shall not be deemed a trespass or other violation of any law, ordinance or statute. The Owners and Subdivision Association grant to the Architectural Control Committee the right to enter upon the Owner's Lot and/or Subdivision's Common Area Property at all reasonable times to fulfill the obligations under this Article V, and neither the Architectural Control Committee nor anyone else entering upon any Lot or Common Area Property at their direction shall be subject to any liability therefore, except for gross negligence or willful misconduct. If after the expiration of said ten (10) day period the requisite corrective action has not been completed to the reasonable satisfaction of the Architectural Control Committee, the Architectural Control Committee shall be and is hereby authorized and empowered by the violating Subdivision Association to cause such remedial action to be taken on the Subdivision Association's behalf, and all reasonable costs and expenses thereof and associated therewith, including but not limited to the costs of collection, court costs and reasonable attorneys' fees, such costs and expenses being herein collectively called the "Maintenance Charges," together with interest accruing thereon from the date or dates of the remedial action of such costs at the rate of (i) ten percent (10.0%) per annum or (ii) the highest rate allowed by law if the highest legal rate is less than ten percent (10.0%) per annum, from such date until paid, shall be charged and assessed against the Subdivision Association. The Maintenance Charges, together with all interest accruing thereon, shall be payable to the Developer and shall be secured by the Assessment Lien as provided in Article VI hereof. Written notice of such assessment shall be delivered to the Subdivision Association by the Architectural Control Committee which notice shall specify the amount of such Maintenance Charges and shall demand payment thereof within thirty (30) days after the date of said notice. By acceptance of a Deed to the Common Area Property, Subdivision Association agrees to and shall pay to the Developer all Maintenance Charges that shall be charged or assessed against Subdivision Association.

5.03 Maintenance by Owner.

The maintenance of the Lot and Dwelling Unit of Owner shall be the obligation of Owner as specified herein. The owner will be responsible for the following maintenance items:

(1) Maintaining the Dwelling Unit and any other Permanent Improvements (other than trees, shrubs or hedges which are obligation of Subdivision Association) in good order and attractive condition;
(2) Adequate watering of lawn and landscaped areas. In addition, Owner agrees to adhere to a set watering schedule as deemed necessary by the Subdivision Association and/or Architectural Control Committee. In the event an irrigation controller malfunctions, the Owner must have the controller repaired in a prompt manner;
(3) Replacement of any dead plants at Owner's cost as deemed necessary by the Subdivision Association and/or Architectural Control Committee due to negligent watering or property damage deemed caused by Owner.

5.04 Improper Maintenance by Owner as to Owner's Obilgations in Article 5.03

In the event any portion of any Lot or any Dwelling Unit is in the reasonable judgment of the Architectural Control Committee so maintained by the Owner thereof (i) as to present a public or private nuisance, (ii) as to substantially detract from the appearance or quality of LAKE POINTE at THE CROSSING, or (iii) as to in any manner fail to comply with any of these Covenants, the Architectural Control Committee, as applicable, may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto deliver written notice thereof to the offending Owner that unless corrective action (such corrective action to be stated in the written notice to the Owner) is taken within ten (10) days from the date of such written notice to remedy the situation, the Architectural Control Committee will cause such action to be taken at such Owner's cost and expense to remedy the situation,

including entry upon the Owner's Lot, if necessary. Any such entry upon a Lot by the Architectural Control Committee or anyone at the direction of the Architectural Control Committee shall not be deemed a trespass or other violation of any law, ordinance or statute. Each Owner grants to the Architectural Control Committee the right to enter upon the Owner's Lot at all reasonable times to fulfill the obligations under this Article V, and neither the Architectural Control Committee nor anyone else entering upon any Lot at their direction shall be subject to any liability therefore, except for gross negligence or willful misconduct. If after the expiration of said ten (10) day period the requisite corrective action has not been completed to the reasonable satisfaction of the Architectural Control Committee, the Architectural Control Committee shall be and is hereby authorized and empowered by the violating Owner to cause such remedial action to be taken on the Owner's behalf, and all reasonable costs and expenses thereof and associated therewith, including but not limited to the costs of collection, court costs and reasonable attorneys' fees, such costs and expenses being herein collectively called the "Maintenance Charges," together with interest accruing thereon from the date or dates of the remedial action of such costs at the rate of (i) ten percent (10.0%) per annum or (ii) the highest rate allowed by law if the highest legal rate is less than ten percent (10.0%) per annum, from such date until paid, shall be charged and assessed against the offending Owner and the offending Owner's Lot. The Maintenance Charges, together with all interest accruing thereon, shall be payable to the Developer or Subdivision Association (whomever incurred the cost) and shall be secured by the Assessment Lien as provided in Article VI hereof. Written notice of such assessment shall be delivered to the offending Owner by the Architectural Control Committee which notice shall specify the amount of such Maintenance Charges and shall demand payment thereof within thirty (30) days after the date of said notice. By acceptance of a Deed to a Lot, every Owner agrees to and shall pay to the Developer or the Subdivision Association (whoever incurred the costs) all Maintenance Charges that shall be charged or assessed against an Owner's Lot.

ARTICLE VI - IMPOSITION OF LIEN; OWNERS' AGREEMENT

6.01 Imposition of Assessment Lien and Priority of the Lien. THE OBLIGATION TO PAY MAINTENANCE CHARGES IN THE MANNER PROVIDED FOR IN ARTICLE V, TO PAY FINES IN THE MANNER PROVIDED FOR IN ARTICLE VIII, TO PAY ASSESSMENTS N THE MANNER PROVIDED FOR IN ARTICLE X, AND TO PAY ANY OTHER CHARGES, OR ASSESSMENTS AS PROVIDED IN THIS DECLARATION, TOGETHER WITH INTEREST, COLLECTION COSTS, COURT COSTS, AND REASONABLE ATTORNEY'S FEES RELATED THERETO, SHALL BE AND IS HEREBY EXPRESSLY SECURED BY A CONTINUING CONTRACTUAL LIEN (THE "ASSESSMENT LIEN") AND CHARGE ON THE LOT COVERED BY SUCH MAINTENANCE CHARGES, FINES, ASSESSMENTS OR OTHER CHARGES, WHICH SHALL BIND SUCH LOT AND THE OWNERS THEREOF AND THEIR HEIRS, SUCCESSORS, DEVISEES, PERSONAL REPRESENTATIVES AND ASSIGNEES. The aforesaid continuing contractual Assessment Lien shall attach to all of the Property as of the date of the recording of this Declaration in the Official Pubic Records of Smith County, Texas, and such Assessment Lien shall be superior to all other liens except as provided in Section 7.03 of this Declaration. The Subdivision and/or Master Association shall have the right to subordinate the aforesaid Assessment Lien to any other lien, and the exercise of such right shall be entirely discretionary with the Subdivision or Master Association. Except for a conveyance to a purchaser at a foreclosure sale pursuant to a lien to which the Assessment Lien is subordinate as provided herein or in Section 7.03 hereof, any part of the Property conveyed to, and accepted and held by, the Owner thereof shall be subject to the Assessment Lien provided for in this Section 6.01. To evidence any unpaid Assessments, the Subdivision or Master Association shall prepare a written notice of unpaid Assessments (the "Notice of Unpaid Assessment") setting forth the amount of the unpaid indebtedness, the name of the Owner and describing the affected part of the Property. Such notice shall be signed by an officer of the Subdivision or Master Association and shall be recorded in the Official Public Records of Smith County, Texas. The Subdivision or Master Association shall record an appropriate release of any recorded Notice of Unpaid Assessments when the amounts referenced therein have been paid. THE ASSESSMENT LIEN MAY BE ENFORCED BY FORECLOSURE OF THE ASSESSMENT LIEN UPON THE DEFAULTING OWNER'S LOT BY THE SUBDIVISION OR MASTER ASSOCATION SUBSEQUENT TO THE RECORDING OF THE NOTICE OF UNPAID ASSESSMENTS EITHER BY JUDICIAL FORECLOSURE OR BY NONJUDICIAL FORECLOSURE THROUGH A PUBLIC SALE IN LIKE MANNER AS A MORTGAGE ON REAL

PROPERTY IN ACCORDANCE WITH THE TEXAS PROPERTY CODE, AS SUCH MAY BE REVISED, AMENDED, SUPPLEMENTED OR REPLACED FROM TIME TO TIME. In addition, the Subdivision or Master Association shall have the right and authority to institute suit against the Owner personally to obtain a judgment for unpaid Assessments. Furthermore, the Subdivision or Master Association shall have such other rights and remedies as permitted or allowed by applicable law. In any foreclosure proceeding, whether judicial or nonjudicial, or in any suit or other action against, or pertaining to the Owner, the Owner shall be required to pay all costs, expenses and reasonable attorneys' fees incurred by the Subdivision or Master Association. The Developer shall have the right and power to buy the Lot at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same, subject to any statutory right of redemption.

6.02 Owner's Agreement. Each Owner, owning a Lot for said Owner, and the Owner's heirs, executors, administrators, personal representatives, successors, and assigns, covenants and agrees:

(a) that the Owner acquires the Owner's Lot subject to the Maintenance Charges, Fines, Assessments, and the Assessment Lien set forth in this Declaration; and

(b) that by accepting a Deed to the Owner's Lot, the Owner is, shall be, and shall remain personally liable for any and all Fines, Maintenance Charges and Assessments created in this Declaration and assessed against the said Owner's Lot while the said Owner is (or was) the Owner thereof regardless of whether such covenants or agreements are expressed in such Deed and regardless of whether the said Owner signed the Deed; and

(c) that by accepting a Deed to the Owner's Lot and to secure the Owner's performance hereunder, the Owner agrees that the Subdivision or Master Association, in its capacity as trustee, shall have the right to nonjudicially foreclose upon the Assessment Lien granted herein in accordance with and upon compliance with the applicable provisions of the Texas Property Code, as the same may be amended or supplemented from time to time.

ARTICLE VII - ENFORCEMENT OF DECLARATION AND OF ASSESSMENT LIEN

7.01 Enforcement by Developer, Architectural Control Committee or Subdivision Association. The Developer, the Architectural Control Committee, or the Subdivision Association, acting either jointly or independently, shall each have the right, jointly or severally, but not the obligation, to enforce the provisions of this Declaration, including, but not limited to, enforcement of the Assessment Lien. Any Owner shall also have the right to enforce this Declaration at the said Owner's sole cost and expense by any appropriate action, whether at law or in equity. Neither the Developer, nor the Architectural Control Committee, nor the Subdivision Association, nor the Master Association shall have any liability to any Owner or any other person or entity for failing or refusing to enforce this Declaration.

7.02 Enforcement Remedies. If the Owner of any Lot fails to pay any Fines, Maintenance Charges or Assessments assessed, or to pay any interest accrued on any Fines, Maintenance Charges or Assessments, or any and all costs (including court costs and attorneys' fees) incurred by either the Developer, the Master Association, the Architectural Control Committee, or the Subdivision Association, or any one of them, in collecting same, the Developer, the Architectural Control Committee, the Master Association and/or the Subdivision Association, as applicable, shall have the right to enforce the payment of the Fines, Maintenance Charges and Assessments, and all interest accrued thereon and costs incurred by either the Developer, the Architectural Control Committee, the Master Association or the Subdivision Association, or any one of them, in collecting same, and/or enforce the Assessment Lien by taking either or both of the following actions, concurrently or separately (and, by exercising either of the remedies hereinafter set forth, the Developer, the Architectural Control Committee, the Master Association and the Subdivision Association do not prejudice their exercise of any other remedy);

(a) bring an action at law and recover judgment against the Owner personally obligated to pay the Fines, Maintenance Charges or Assessments; or

(b) enforce the Assessment Lien against the Lot by any means available at law or in equity, including without limitation a nonjudicial foreclosure sale of the Lot, such sale to be conducted in the manner set forth in 51.002 of the Texas Property Code, as the same may be amended or supplemented from time to time. The Developer or any other Owner may be the purchaser at any such foreclosure sale.

7.03 Subordination of the Assessment Lien to First Mortgage or Deed of Trust. The Assessment Lien provided for herein shall be subordinate to any valid first mortgage lien (purchase money or improvement loan) held by, or deed of trust of which the beneficiary is, an institutional lender which is chartered (or licensed) by the United States or any state within, the United States. Sale or transfer of any Lot shall not affect the Assessment Lien, provided, however, that if the sale or transfer is pursuant to foreclosure of any such superior mortgage lien or deed of trust, or pursuant to any sale or proceeding in lieu thereof, the purchaser at the mortgage lien foreclosure or deed of trust sale, or any grantee taking by deed in lieu of foreclosure, shall take the Lot free of the Assessment Lien for all Maintenance Charges that have accrued up to the date of issuance of a sheriffs or trustee's deed or deed in lieu of foreclosure; but upon the date of issuance of a sheriffs or trustee's deed or deed in lieu of foreclosure, the Assessment Lien immediately shall become and remain superior to any and all other charges, liens, or encumbrances (except lien for taxes or other public charges which by applicable law are expressly made superior and except to the extent stated herein with respect to any subsequent first lien financing), and such mortgage or deed of trust foreclosure sale purchaser or grantee shall take the Lot or Properly subject to all Maintenance Charges and Assessments, and the Assessment Lien therefor accruing subsequent to the date of issuance of a sheriffs or trustee's deed or deed given in lieu of foreclosure.

ARTICLE VIII -RIGHTS AND POWERS

8.01 Right to Inspect. The Developer, the Architectural Control Committee, the Master Association and the Subdivision Association, jointly or severally, shall have the right to enter upon all Lots for the purpose of inspecting whether or not the Owner thereof is in compliance with the Declaration and Covenants, and each Owner grants the Developer, the Architectural Control Committee, the Master Association and the Subdivision Association the right to enter upon the Owner's Lot for such inspection purposes. If during the course of construction of any improvements upon a Lot, the Developer, the Architectural Control Committee, the Master Association or the Subdivision Association, jointly or severally, determines in its/their sole discretion that there is a violation of the Covenants, the Developer, the Architectural Control Committee, the Master Association or the Subdivision Association, as appropriate, may order a discontinuance of the construction of the improvements until such time as corrective measures have been taken to assure full compliance with the Covenants, and an Owner's failure to immediately discontinue or cause the discontinuance of construction of the Dwelling Unit, upon demand by Developer, the Architectural Control Committee, the Master Association or the Subdivision Association, shall constitute a further violation of this Declaration by that Owner.

8.02 Fines. The Developer, Master Association and/or Subdivision Association shall have the right to levy reasonable fines against any Owner who (i) violates any of the Covenants, (ii) violates any other covenant, restriction, reservation, charge, servitude, assessment or conditions set forth in this Declaration, or (iii) violates any rule, condition or regulation enacted, passed or otherwise required or approved by the Developer, Master Association, the Architectural Control Committee, or the Subdivision Association, Such fines against any Owner shall be an Assessment, as herein defined.

(a) When the Developer, the Master Association or the Subdivision Association shall levy a reasonable fine against any Owner or Owners, the Developer, Master Association or Subdivision Association, as applicable, shall give written notice of such fine to the

affected Owner or Owners at such Owner's or Owners' most recent address according to the records of the Developer, Master Association or Subdivision Association by United States mail, certified mail, return receipt requested, with proper postage affixed thereon. Upon receipt of such written notice, the Owner or Owners shall have ten (10) days to request in writing a private meeting with the Developer, Master Association or Subdivision Association, as applicable, to discuss the nature of the violation giving rise to the fine.

(b) At the conclusion of the private meeting provided for in Section 8.02(a), above, or (ii) if no private meeting is requested by the Owner or Owners, the Developer, Master Association or Subdivision Association, as applicable, shall advise the Owner or Owners in writing of its final decision with respect to the violation. If the final decision results in a fine being levied against the Owner or Owners, the Owner or Owners shall pay such fine within ten (10) days of such final decision. If such fine is not fully paid within such ten-day period, the Developer, Master Association or Subdivision Association may enforce such Assessment as provided in this Declaration, i.e. Article VII.

ARTICLE IX - RESERVATIONS OF DEVELOPER

9.01 Reservations. The following reservations are hereby made by Developer:

A. The utility easements shown on the Plat are dedicated with the reservation that such utility easements are for the use and benefit of any public utility operating in Smith County, Texas, as well as for the benefit of Developer to allow for the construction, repair, maintenance and operation of a system or systems of electric light and power, telephone liens, television cable lines, security, gas, water, sanitary sewers, storm and sewers and any other utility or service which Developer may find necessary or proper.

B. Developer reserves the right from time to time to make changes in the location, shape, and size of, and additions to, the easements described in Section 9.01(A) above, for the purpose of more efficiently or desirably installing utilities therein and thereon, and this right to make such changes is herein and hereby expressly transferred and assigned to Developer.

C. The title conveyed to any Lot shall not be held or construed to include the title to the water, gas, electricity, telephone, storm sewers or sanitary sewers lines, poles, pipes, conduits, cable television lines or other appurtenances or facilities constructed by Developer or public utility companies upon, wider, along, across or through such utility easements; and the right (but not obligation) to construct, maintain, repair and operate such systems, utilities, appurtenances and facilities is reserved to Developer, its successors and assigns.

D. The right to sell, dedicate or lease the liens, utilities, appurtenances and other facilities described in Section 9.01(C), above, to any municipality, governmental agency (including any water control or utility district created under Article XVI, Section 59 of the Texas Constitution covering the Property as well as other lands), public service corporation or other party is hereby expressly reserved to Developer.

E. The Developer, and its successors or assigns, shall not be liable for any damage caused or done by the Developer, nor any of its agents or employees to any Lot, any Permanent Improvements, or to any shrubbery, trees, flowers or other property of any Owner situated on any Lot.

F. The right to enter upon any Lot or Lots during installation of streets for the purpose of performing street excavation, construction, and paving is hereby reserved to Developer,

its successors and assigns. The Developer, and its successors or assigns, shall not be liable for any damage done by The Developer nor any of its agents or employees to shrubbery, trees, flowers or other property of the Owner which is necessitated by such street construction.

ARTICLE X - THE SUBDIVISION ASSOCIATION

10.01 Establishment. The Developer shall have the right to form the Subdivision Association by the filing of the Certificate of Formation of the Subdivision Association with the Secretary of State of the State of Texas. The Subdivision Association has not been established on the date of the filing of this Declaration. The Subdivision Association may be formed by the Developer at any time after the date on which this Declaration is recorded.

10.02 By-Laws. Bylaws for the Subdivision Association will be established and adopted by the Board of the Subdivision Association.

10.03 Membership. The Developer and each Owner of a Lot, including successive buyers, shall automatically and mandatory become and be a Member of the Subdivision Association. Membership shall be appurtenant to and shall not be separated from ownership of any Lot. Every Member shall have a right at all reasonable times during regular business hours of the Subdivision Association to inspect the books and records of the Subdivision Association.

10.04 Voting Rights. The Subdivision Association shall have two (2) classes of membership to be designated as Class A and Class B.

A. Class A members shall be all Owners with the exception of the Developer. A Class A member shall be not entitled to vote until (i) the Developer initially sells all of the Lots owned by the Developer that are part of the Property, or (ii) the Developer files a statement with the Subdivision Association that the Developer will allow the Class A members to vote. Once the Developer files the statement with the Subdivision Association allowing Class A members to vote, the statement may not be revoked by the Developer. Each Class A member shall, once the Class A members are entitled to vote, be entitled to one (1) vote for each individual Lot owned. When more than one person owns an interest in an individual Lot, all such persons shall be members of the Subdivision Association, however, the one (1) vote voting right for such Lot shall be exercised collectively as the owners of the particular Lot shall between or among themselves determine.

B. The Developer shall be the Class B member for so long as it owns any Lot that is a part of the Property which has not previously been conveyed by the Developer to an Owner. When any Lot is initially sold by the Developer, the Class B membership with respect to such Lot shall cease and automatically become and be a Class A membership. Unless the Developer files the statement with the Subdivision Association referred to in Section 10.04(A), above, allowing Class A members to vote, for so long as the Developer, owns any Class B membership, the Developer shall be the only member of the Subdivision Association entitled to vote.

C. Once the Class A members are entitled to vote, whether by sale by the Developer of all of the Developer's Lots or by the Developer's filing the statement with the Subdivision Association allowing the Class A members to vote, the Class B member shall no longer be entitled to vote as a member of the Subdivision Association.

10.05 Board of Directors. The Board shall be elected by the members as provided in the By-Laws. The Board shall conduct the business of the Subdivision Association, except when a membership vote is required by this Declaration, the Certificate of Formation, or the By-Laws.

10.06 Assessments. Each Lot is hereby subject to an annual maintenance charge and assessment for the purpose of creating a fund to be used for the mutual benefit of all Owners, the

Subdivision, and LAKE POINTE at THE CROSSING. The amount of such annual maintenance charge shall be determined by the Board, and such annual and special maintenance charges and assessments shall be paid by the Owner of each Lot to the Subdivision Association in accordance with the procedures that shall be adopted from time to time by the Board. The annual maintenance charges and assessments may be used for, among other purposes, upkeep, repair and maintenance of the Lots and the Subdivision. The special charges and assessments shall be used only for the purposes for which they are assessed by the Board. If an Owner shall own more than one Lot, the Owner shall be responsible for paying the full annual maintenance charge and the full special assessment for each Lot owned by the Owner. Notwithstanding anything contained in this Declaration or elsewhere, the Developer shall not at any time be required to pay nor otherwise be responsible for payment of any annual or special maintenance charge or assessment.

10.07 Special Assessments. In addition to the annual maintenance assessment charge as noted in Article 10.06, the Developer or Subdivision Association shall possess the right, power and authority to establish special assessments from time to time as may be necessary or appropriate to pay for any expenses related to the proper maintenance, care, improvement or reconstruction of the Common Areas, walls, fences or landscape easements belonging to the Subdivision Association. Notwithstanding anything to the contrary contained in this Declaration, any special assessment established hereunder must be approved by the affirmative vote of seventy-seven percent (77%) of a quorum of the total votes of each class of Owners present at a duly called meeting for such purpose. At least seventy-five percent (75%) of the Owners of each class must be present at this duly called meeting in order to constitute a quorum.

As an alternative, the Developer reserves the right to perform the maintenance contemplated in this Article 10.07, and to assess each Owner with the prorata share of the costs, including reasonable attorney fees incurred by the Developer, as set forth in the bylaws of the Association.

10.08 Conflicts. The Subdivision Association may make whatever rules, regulations and By-Laws it deems necessary or desirable to govern the Subdivision Association and its members; provided, however, that any conflict between the Subdivision Association's rules, regulations and By-Laws and the provisions of this Declaration shall be controlled by and resolved in favor of this Declaration.

ARTICLE XI – THE MASTER ASSOCIATION

11.01 Membership in Master Association. Each Owner of a Lot including successive buyers, shall automatically and mandatorily become and be a member of the Master Association and shall be subject of the existing restrictions entitled Declaration of Covenants, Restrictions, Conditions, Assessments, Charges, Servitudes, Liens, Reservations and Easements for THE CROSSING, filed of record as document number 2007-R00022343 as well as the Amendment to Declaration of Covenants, Restrictions, Conditions, Assessments, Charges, Servitudes, Liens, Reservations and Easements for THE CROSSING, filed as document number 2010-R00036267 of the Official Public Records of Smith County, Texas (the "Master Declaration") including all restrictions, assessments, easements, etc. as described therein.

10.02 Conflicts with Master Association. In the event any conflict between the Subdivision Association's rules, regulations and By-Laws and the Master Association's rules, regulations and By-Laws occurs, the provisions of the Master Declaration shall control.

ARTICLE XII - TERMS; AMENDMENTS; TERMINATIONS

12.01 Term: Method Of Termination. This Declaration and the Covenants shall be effective upon the date of recordation hereof and, as may be amended from time to time, shall continue in full force and effect to and including December 31, 2043. From and after December 31, 2043, this Declaration, as it may have been amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the then Owners of at least seventy-

five percent (75.0%) of the Lots (there being only one vote per Lot which shall be exercised collectively by any multiple owners of interests in any one Lot as they may among themselves determine) casting their votes for termination at a meeting of the Owners held for such purpose within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension.

12.02 Amendments. Until the later of (i) the date on which the Developer shall have initially sold all of the Lots, such sales being evidenced by the recording of a Deed from the Developer to the initial buyer of a Lot, or (ii) December 31, 2016, the Developer shall have the right to unilaterally change or amend this Declaration at any time, in any manner, and for any reason or purpose as determined at the sole discretion of the Developer. After all of the Lots have been initially sold by Developer, this Declaration may be amended or changed in whole or in part at any time only by the affirmative vote of the then Owners of at least seventy-five percent (75.0%) of the Lots (each Owner having one vote per Lot owned which shall be exercised collectively by any multiple owners of interests in any one Lot as they may among themselves determine) casting their votes to amend or change this Declaration at a special meeting of the Owners called pursuant to Section 12.03.

12.03 Election Procedures. The affirmative votes required under Sections 12.01 and 12.02 hereof shall he obtained and evidenced by the requisite vote of the Owners present at a meeting of Owners duly called by at least twenty-five percent (25.0%) of the Owners or by the Developer pursuant to notice to all of the Owners on or prior to ten (10) days before the date of the meeting at which meeting the requisite percentage of Owners vote to so amend or terminate this Declaration. No proxy votes shall be allowed or valid. The notice of the meeting must set forth the proposal as to amendment of this Declaration and such affirmative vote of the requisite percentage of Owners must be evidenced by minutes of the meeting duly certified by the Owners who called the meeting or the Developer. In any event, as long as the Developer owns a Lot in the Subdivision, a copy of the minutes shall be delivered to the Developer prior to any amendment or change becoming effective.

12.04 Recording Amendments. Upon the amendment or change of this Declaration (and/or the Covenants contained herein) as herein provided, and upon the other conditions set forth in Section 12.01 and Section 12.03 of this Article XII having been satisfied, then each amendment shall be executed by the (i) the Developer, its successors or assigns, or (ii) the Owners who voted in favor of the amendment or change, as applicable, placed in recordable form, and filed of record in the Official Public Records of Smith County, Texas, accompanied by a statement that either (i) the Developer, or (ii) the requisite percentage of Owners, have voted to make such amendment to this Declaration.

12.05 Effect. Upon the filing of an amendment or change in accordance with Section 12.04, this Declaration and the Covenants, as amended, shall remain in full force and effect.

ARTICLE XIII - RESERVATION OF RIGHT TO RESUBDIVIDE

Subject to the approval of any and all appropriate governmental agencies having jurisdiction over the Subdivision or any Lot, Developer hereby reserves the right at any time while it is the Owner thereof to subdivide or resubdivide, as the case may be, and/or plat or replat, as the case may be, all or any portion of the Subdivision or of any Lot or Lots then owned by Developer without the consent of any Owner.

ARTICLE XIV - MISCELLANEOUS

14.01 Interpretation of the Covenants. Except for judicial construction, until the Subdivision Association is incorporated, the Developer shall have the exclusive right and power to construe and interpret the provisions of this Declaration. Once the Subdivision Association is formed, the Developer and/or the Subdivision Association shall have the exclusive right and power to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a Court of competent jurisdiction, the Developer's and/or the Subdivision Association's construction or interpretation of the

provisions hereof, as applicable, shall be final, conclusive, and binding as to all persons and properly benefitted or bound by this Declaration and the provisions hereof.

14.02 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other, remaining provisions hereof, which remaining provisions shall be and remain in full force and effect.

14.03 Rule Against Perpetuities. If any interest purported to be created by this Declaration is challenged under the Rule Against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed. from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" for computing the period of perpetuities shall be (a) those which would be used in determining the validity of the challenged interest, plus (b) if applicable, those of the issue of the Developer who are living at the time the period of perpetuities starts to run on the challenged interest.

14.04 Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate, or modify any of the provisions of this Declaration.

14.05 Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Developer, the Subdivision Association, the Master Association or the Architectural Control Committee, as applicable, shall have the right to adopt rules and regulations with respect to all other aspects of the rights, activities and duties of the Developer, the Master Association, the Subdivision Association or the Architectural Control Committee, as applicable, provided said rules and regulations are not inconsistent with the provisions of this Declaration.

14.06 Disclaimer of Representation. Anything to the contrary in this Declaration notwithstanding, and except as otherwise may be expressly set forth on a recorded plat or other instrument recorded in the Official Public Records of Smith County Texas, neither the Developer nor the Architectural Control Committee makes any warranties or representations whatsoever that the plans presently envisioned for the complete development of the Property can or will be carried out.

14.07 Limitation of Liability. In the absence of willful and intentional misconduct attributable to (i) Developer, its successors or assigns, (ii) the Architectural Control Committee (and any and all members thereof), or (iii) the Subdivision Association or Master Association (and any and all members thereof) neither the Developer, nor its successors or assigns, nor the Architectural Control Committee (nor any member thereof), nor the Subdivision Association (nor any member thereof), nor the Master Association (nor any member thereof) shall have any liability of any nature whatsoever arising out of or in any manner related to the performance or nonperformance of any of the rights and powers reserved unto Developer, the Architectural Control Committee, the Master Association, the Subdivision Association, or their respective heirs, executors, administrators, personal representatives, legal representatives, successors or assigns, pursuant to this Declaration.

14.08 Successors and Assigns. Any reference in this Declaration to Developer shall include Developer's successors and assigns.

14.09 Gender and Number. Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

14.10 Captions and Titles. All captions, titles, or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify, or otherwise affect any of the provisions hereof, or to be used in determining the intent or context thereof.

14.11 Notices. Any notice required or permitted to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, delivery shall be deemed to have been made twenty-four (24) hours after a copy of the notice has been deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed to each such person or entity at the address given by such person or entity to the party sending the notice or to the address of the Dwelling Unit or the office of such person or entity if no address has been given. Such address may be changed from time to time by notice in writing.

14.12 Prior Recorded Instruments. This Declaration and all of the provisions hereof are expressly subject to all prior recorded documents affecting the Property.

14.13 Enforcement of the Covenants. Notwithstanding anything to the contrary herein, in the event of any violation or attempted violation of any of the provisions of this Declaration, including any of the Covenants, enforcement shall be authorized by any proceedings at law or in equity against any person or persons violating or attempting to violate any of such provisions, including proceedings to restrain or prevent such violation or attempted violation by injunction, whether prohibitive in nature or mandatory in commanding compliance with such provisions; and it shall not be a prerequisite to the granting of any such injunction to show inadequacy of legal remedy or irreparable harm. Likewise, any person entitled to enforce the provisions hereof may recover such damages as such person has sustained by reason of the violation of such provisions.

14.14 Suspension of the Covenants. The Developer and the Subdivision Association shall and do have the right during the period of construction, development, and sale of the Lots in the Subdivision, to grant reasonable and specifically limited exemptions and waivers from the Covenants to Developer and any other developer or contractor. Any such exemptions or waivers shall be granted only upon specific written request, itemizing the exemption or waiver requested, the location thereof, the need therefor, and the anticipated duration thereof and any authorization and approval thereof shall be similarly itemized. No such exemption or waiver shall be broader in terms of activity, location, or time than is reasonably required.

14.15 Non-Waiver. Any failure or delay on the part of either the Developer, the Architectural Control Committee, the Master Association, the Subdivision Association, and/or any Owner (i) to exercise any right, remedy or duty under this Declaration, or (ii) to take any action to enforce the Covenants or the Declaration, with regard to anyone matter or situation or group of matters or situations in any manner covered by or arising out of the Covenants or Declaration shall not in any manner be deemed or construed to be a waiver of the same or any subsequent matter or situation or group of matters or situation arising hereunder. No forbearance of any type for any period of time by either the Developer, the Architectural Control Committee, the Master Association, the Subdivision Association, and/or any Owner shall be in any manner deemed or construed to be a waiver of any right, remedy or duty hereunder, but all such rights, remedies and duties shall continue in full force and effect as if no forbearance had occurred. All Owners by accepting a Deed to a Lot hereby expressly covenant, stipulate, acknowledge and agree that (i) he, she or it expressly waives the affirmative defense of waiver with respect to any violation of this Declaration, or any part hereof or covenant herein, and (ii) the affirmative defense of waiver as recognized under the laws of the State of Texas shall not be available to any Owner as a defense to the violation of this Declaration, or any part hereof or covenant herein.

14.16 Liberal Interpretation. This Declaration, and all of the covenants, conditions, assessments, charges, servitudes, liens, reservations, and easements, shall be liberally construed to effectuate the purposes of this Declaration.

WERNER-TAYLOR LAND & DEVELOPMENT,
L.P., a Texas limited partnership

By: WERNER-TAYLOR MANAGEMENT, LLC,
a Texas limited liability company,
Its General Partner

By: _____
MICHAEL WERNER, President

STATE OF TEXAS §
§
COUNTY OF SMITH §

This instrument was acknowledged before me on this 25 day of April, 2014 by MICHAEL WERNER, President of WERNER-TAYLOR MANAGEMENT, LLC, a Texas limited liability company, General Partner of WERNER-TAYLOR LAND & DEVELOPMENT, L.P., a Texas limited partnership, on behalf of said limited partnership.

SUSAN V. TURNER
Notary Public
STATE OF TEXAS
My Comm. Exp. Nov. 01, 2014

_____
NOTARY PUBLIC, STATE OF TEXAS

WHEN RECORDED RETURN TO:

Mr. Michael J. Werner
Werner-Taylor Land & Development, L.P.
1397 Dominion Plaza Suite 120
Tyler, Texas 75703

EXHIBIT

A

TRACT 1:

BEING 119.715 acres of land situated in the Don Thomas Quevado Seven League Grant A-18 Section-5 and the Thomas Price Survey A-794 Smith County, Texas and being a part of that certain called 116.509 acre tract to Harry S. Phillips recorded in volume 1559, page 860 of the Deed Records of Smith County, Texas and all of that certain called 30 acre tract known as Tract One to Harry S. Phillips recorded in volume 2119, page 662 of said Deed Records and that certain called 31.65 acre tract known as Tract Two to Harry S. Phillips recorded in volume 2119, page 663 of said Deed Records said 119.715 acres to be more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod found for corner in the North line of said 116.509 acre tract and being at the Southwest corner of said 30 acre tract, Tract One and also being at the Southeast corner of that certain called 49.683 acre tract to Timothy John Beverley recorded in volume 2835, page 248 of said Deed Records;

THENCE N 00°28'17" E with the West line of said 30 acre tract and the East line of said 49.683 acre tract a distance of 1237.55 feet to a 1/2" iron rod found for corner at the Northwest corner of said 30 acre tract and the Northeast corner of said 49.683 acre tract and being in the South line of a called 46.185 acre tract to Joe C. Moore recorded in volume 2482, page 345 of said Deed Records;

THENCE S 89°38'15" E with the North line of said 30 acre tract and the South line of said 46.185 acre tract a distance of 1056.33 feet to a rock found for corner at the Northeast corner of said 30 acre tract and the Southeast corner of said 46.185 acre tract and being in the West line of a called 84 acre tract to H.B. Marsh and A.G. McIlwaine recorded in volume 87, page 262 of said Deed Records;

THENCE S 01°00'18" W with the East line of said 30 acre tract and the West line of said 84 acre tract a distance of 39.72 feet to a 1/2" iron rod set for corner at the Northwest corner of said 31.65 acre tract and being at the Southwest corner of said 84 acre tract;

THENCE S 76°47'26" E with the South line of said 84 acre tract and the North line of said 31.65 acre tract a distance of 1477.42 feet to a 1/2" iron rod set for corner at the Northeast corner of said 31.65 acre tract and being in the Northwest line of a Rails to Trails tract;

THENCE S 40°14'36" W with said Northwest line and the Southeast line of said 31.65 acre tract a distance of 78.24 feet to a 1/2" iron rod set for corner in same;

THENCE S 42°51'18" W with said Southeast line and said Northwest line of said Rails to Trails tract a distance of 2057.97 feet to a 1/2" iron rod set for corner in same and being at the South corner of said 31.65 acre tract and a Northerly Southeast corner of said 116.509 acre tract;

TRACT 1 CONTINUED:

THENCE S 42°58'40" W with a Southeast line of said 116.509 acre tract and the Northwest line of said Rails to Trails tract a distance of 719.64 feet to a 1/2" iron rod set for corner in same and being in the right-of-way of County Road 164 and also being at the Southeast corner of said 116.509 acre tract, same being the Northeast corner of a called 2.941 acre tract to Larry J. Taylor recorded in volume 3317, page 828 of said Deed Records;

THENCE S 89°51'09" W with the South line of said 116.509 acre tract and the North line of said 2.941 acre tract and the North line of a called 11.559 acre tract to George W. Woodcook et ux recorded in volume 2210, page 301 of said Deed Records a distance of 1654.17 feet to a 1/2" iron rod set for corner in same;

THENCE N 00°20'21" E across said 116.509 acre tract a distance of 1245.47 feet to a 1/2" iron rod set for corner in the North line of said 116.509 acre tract and the South line of said 49.683 acre tract;

THENCE N 89°59'27" E with the North line of said 116.509 acre tract and the South line of said 49.683 acre tract a distance of 1083.53 feet back to the place of BEGINNING and containing 119.715 acre tract.

TRACT 2:

BEING 0.186 acres of land situated in the Thomas Price Survey A-794 Smith County, Texas also being all of that certain called 0.18 acre tract described in a deed from Julius M. Sanders to Harry S. Phillips dated August 16, 1984 and recorded in volume 2301, page 354 of the Deed Records of Smith County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 1" axle w/gear found at the Southwest corner of said 0.18 acre tract and being in the East right-of-way line of an original railroad right-of-way now known as the Rails to Trails property;

THENCE N 42°58'40" E along the West boundary line of said 0.18 acre tract and the East right-of-way line of Rails to Trails a distance of 380.38 feet to a 1/2" iron rod set for corner at the North corner of said 0.18 acre tract and at the intersection of the East right-of-way line of said Rails to Trails property and the Northwest right-of-way line of F.M. 2493;

THENCE S 37°07'39" W along the East boundary line of said 0.18 acre tract and the Northwest right-of-way line of F.M. 2493 a distance of 182.53 feet to the P.C. of a curve to the left whose functions are as follows: Delta angle = 05°54'38", radius = 1,953.67 feet, tangent = 100.85 feet, length = 201.54 feet and a cord which bears S 34°08'51" W 201.45 feet;

THENCE in a Southwesterly direction along said curve to the left a distance of 201.54 feet to a 1" axle found at the Southeast corner of said 0.18 acre tract and being in the Northwest right-of-way line of F.M. 2493;

THENCE N 46°42'05" W along the South boundary line of said 0.18 acre tract and the North boundary line of a called 1.896 acre tract owned by Wayne Moses et ux a distance of 49.53 feet back to the place of BEGINNING and containing 0.186 acres of land.

TRACT 3:

All that certain tract or parcel of land, being 2.941 acres, a part of a called 15.0 acre tract which is in the Northeast part of a called 65 acre tract in **SECTION NO. 5, DON THOMAS QUEAVADO LEAGUE, Abstract No. 18,** Smith County, Texas, and more particularly described as follows, to-wit:

BEGINNING at an iron pipe for corner, the Northeast Corner of the above mentioned 15 acre tract, same being the Northeast Corner of the called 65 acre tract, said Northeast Corner of the 15 acre tract fully described in a Deed from D. L. Buie and wife, Annie Laurie Buie to Alton Buck and wife, Josephine Buck, recorded in Volume 960, Page 438, Deed Records of Smith County, Texas;

THENCE South 43 degrees 05 minutes West with the Eat Line of the 15 acre tract and the West line of the St. Louis and Southwestern Railroad, called Lufkin Spur, a distance of 442.57 feet to an iron pin for corner in the East line of the 15.0 acre tract and the West line of the Railroad Right of Way;

THENCE North 77 degrees 45 minutes West, 323.11 feet to an iron pin for corner in a pasture;

THENCE North 18 degrees 44 minutes East, 264.90 feet to an iron pin for corner in the North line of the 15.0 acre tract;

THENCE North 89 degrees 36 minutes East with the North line of 15 acre tract, 533.0 feet to the PLACE OF BEGINNING, **Containing 2.941 acres of land.**

TRACT 4:

BEING a 49.61 acre tract in the Don Thomas Quevado, Seven League Grant, Section 5, Abstract No. 18, Tyler, Smith County, Texas and being all of a called 49.61 acre tract as described in a Deed from Timothy J. Beverley, et al to Mollie A. Winston, et al in Volume 7356, Page 374 of the Smith County Land Records and being more completely described as follows:

BEGINNING at a ½" iron rod found at the Northeast corner of said 49.61 acre tract, at the Northwest corner of a called 119.715 acre tract described in a Deed from BPG, Inc. to Larry J. Taylor in Volume 3416, Page 128 of said Smith County Land Records, on the South boundary line of a called 46.185 acre tract described in a Deed from M. G. Moore to Joe C. Moore in Volume 1521, Page 511 of said Smith County Land Records, on the South boundary line of Section 6 and the North boundary line of Section 5 of said Don Thomas Quevado, Seven League Grant, Abstract No. 18;

THENCE South 01 degree 43 minutes 49 seconds East, a distance of 1237.25 feet with the East boundary line of said 49.61 acre tract and the West boundary line of said 119.715 acre tract, to a 1/2" iron rod found at the Southeast corner of said 49.61 acre tract and at an interior angle corner of said 119.715 acre tract;

THENCE South 87 degrees 47 minutes 42 seconds West, a distance of 1083.74 feet with the South boundary line of said 49.61 acre tract and the most Southerly North boundary line of said 119.715 acre tract to a 1/2" iron rod found at the most Southerly Northwest corner of said 119.715 acre tract and the Northeast corner of a called 58.431 acre tract described in a Deed from Gary T. Kimmel, et ux to Gerald Kirkpatrick, et ux in Volume 6084, Page 273 of said Smith County Land Records;

THENCE South 87 degrees 48 minutes 32 seconds West, a distance of 806.92 feet with the South boundary line of said 49.61 acre tract and the North boundary line of said 58.431 acre tract to a 1/2" iron rod found at a T-post at the Southwest corner of said 49.61 acre tract, at the East corner of a called 2.723 acre tract described in a Deed from Robert E. Steel, et ux to Steel Family Trust in Volume 3264, Page 466 of said Smith County Land Records, and at the South corner of a called 1.038 acre tract described in a Deed from John B. Gabriel and wife, Barbara E. Gabriel to William L. Burleson and wife, Juanita M. Burleson in Volume 1750, Page 716 of said Smith County Land Records;

THENCE North 16 degrees 08 minutes 39 seconds East, a distance of 403.99 feet with the West boundary line of said 49.61 acre tract and the East boundary line of said 1.038 tract to a 1/2" iron rod found at the East corner of said 1.038 acre tract and at the South corner of a called 2.676 acre tract described in a Deed from Gregory A. Fraser, et ux to Charles Randal Mase in Volume 5292, Page 193 of said Smith County Land Records;

TRACT 4 CONTINUED:

THENCE North 14 degrees 06 minutes 55 seconds East, a distance of 421.44 feet with the West boundary line of said 49.61 acre tract and the East boundary line of said 2.676 acre tract to a 1/2" iron rod found;

THENCE North 32 degrees 28 minutes 12 seconds West, a distance of 262.88 feet with the West boundary line of said 49.61 acre tract and the Northeast boundary line of said 2.676 acre tract to a 1/2" iron rod found at the North corner of said 2.676 acre tract, also being in the centerline of County Road No. 196, (Old Noonday Road);

THENCE North 48 degrees 26 minutes 45 seconds East, a distance of 376.39 feet with the West boundary line of said 49.61 acre tract and the centerline of said County Road No. 196, (Old Noonday Road), to a 60 penny nail set in same, at the Northwest corner of said 49.61 acre tract, on the North boundary line of Section 5 and the South boundary line of Section 6 of said Don Thomas Quevado, Seven League Grant, Abstract No. 18, from which a 1/2" iron rod found at the Southwes corner of a called 4.746 acre tract described in a Deed from Novella Wright Duggan, et al to Thomas H. Benson in Volume 1992, Page 402 of said Smith County Land Records, bears North 88 degrees 34 minutes 39 seconds East, a distance of 76.29 feet;

THENCE North 88 degrees 34 minutes 39 seconds East, a distance of 879.80 feet with the North boundary line of said 49.61 acre tract, the South boundary line of said 4.746 acre tract, the North boundary line of said Section 5 and the South boundary line of said Section 6 of the Don Thomas Quevado, Seven League Grant, Abstract No. 18, to a fence corner found at the Southeast corner of said 4.746 acre tract and at the Southwest corner of a called 14 and 36/100 acre tract described in a Deed from J. W. Tyner, et ux to Mitzi D. Tyner Parks and Gordon C. Tyner in Volume 4613, Page 137 of said Smith County Land Records;

THENCE North 88 degrees 02 minutes 35 seconds East, a distance of 568.62 feet with the North boundary line of said 49.61 acre tract, the South boundary line of said 14 and 36/100 acre tract, the North boundary line of said Section 5, and the South boundary line of said Section 6 of said Don Thomas Quevado, Seven League Grant, to the PLACE OF BEGINNING containing 49.61 acres of land of which 0.273 of an acre lies within an area calculated 30 feet from the centerline of County Road No. 192, leaving a net acreage of 49.34 acres of land.

EXHIBIT "B"

DEFINITIONS

The following words, phrases or terms used in this Declaration shall have the following meanings:

"Architectural Control Committee" shall mean the Developer or such other person, persons or entity who shall be named to serve by Developer in conjunction with or as the successor to Developer, provided, however, that such change shall not be effective for purposes of these Covenants until a statement of such change has been duly recorded by the Developer, or Developer's successors or assigns, in the Official Public Records of Smith County, Texas. The Developer, or Developer's successors or assigns, shall have the right at any time to change the number of members comprising the Architectural Control Committee and the persons forming the membership of the Architectural Control Committee at the sole discretion of said Developer, or Developer's successors or assigns, by the filing for record in the Official Public Records of Smith County, Texas of a statement to such effect as provided herein.

"Assessable Property" shall, mean each part or portion of the Property and the Permanent Improvements located thereon.

"Assessment" means any general or special assessment at any time imposed by the Association as provided in Article X of the Declaration.

'Assessment Lien" shall mean the lien created and imposed against any part of the Property by Article VI of this Declaration.

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

"Common Area Property" shall mean that portion of the Property that shall be owned by the Subdivision Association for the benefit of all of the Owners of the real property located within the Property.

"Lake Pointe Design Guidelines" shall mean a written instrument adopted by the Architectural Control Committee used to establish design criteria for Permanent Improvements.

"Covenants" shall mean the covenants, conditions, assessments, charges, servitudes, liens, reservations and easements set forth herein.

"Developer" shall mean Werner-Taylor Land & Development, L.P., a Texas limited partnership, and its successors or assigns of any or all rights and powers hereunder, but with respect to any such successor or assignee (i) such successor or assignee shall not be deemed to be a "Developer" unless such successor or assignee is designated as such pursuant to a written instrument signed by Developer, which written instrument shall be filed of record in the Official Public Records of Smith County, Texas, and (ii) such successor or assignee shall only have those rights and powers of Developer that are specifically assigned to such successor or assignee pursuant to such written instrument.

"Declaration" shall mean this Declaration of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations and Easements as amended or supplemented from time to time as herein provided.

"Deed" shall mean a deed or other instrument conveying the fee simple title to all or any portion of the Property.

"Developer Land" shall mean all property owned by Developer within the Property.

"Dwelling Unit" shall mean with respect to any Lot, any buildings constructed as Permanent Improvements

"Fines" shall mean the fines that may be imposed as provided in Section 8.02 of this Declaration.

"Lot" shall mean all lots, individually, of LAKE POINTE at THE CROSSING, as shown upon the Plat of the Property filed for record in **Cabinet E, Slide 275D** of the Plat Records of Smith County, Texas, as such plat may be amended from time to time, together with any lots which may, from time to time result from the resubdivision, combination or division of any of the Lots as may be shown upon a plat or plats of the Property, or any part thereof, hereafter filed for record in the Plat Records of Smith County, Texas.

"Maintenance Charges" shall mean any and all costs assessed as provided in Article V of this Declaration.

"Owner" shall mean the person or persons, entity or entities, who, individually or jointly, own record title to a Lot of the Property. The term "Owner" shall exclude any person or persons, entity or entities, having an interest in a Lot of the Property or any such parcel merely as security for the performance of an obligation. The term "Owner" shall include Developer so long as Developer is a record title owner of any Lot of the Property.

"Permanent Improvements" shall mean with respect to any Lot of the Property, any and all improvements, structures and other materials and things located thereon, including without limitation, trees, berms, shrubs, hedges and fences.

"Subdivision" shall mean the residential subdivision located in Smith County, Texas, and known as LAKE POINTE at THE CROSSING, according to the Plat, as the same may be amended or supplemented from time to time.

"Structure" shall mean with respect to any Lot, any buildings constructed as Permanent Improvements.