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DECLARATION OF

COVENANTS, CONDITIONS & RESTRICTIONS

FOR

LOLA CREEK RANCH HOMEOWNERS ASSOCIATION, INC.

Wise County

Declarant
KBE Management Company Series 8

DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS FOR LOLA CREEK RANCH HOMEOWNERS ASSOCIATION, INC.

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This Declaration of Covenants, Conditions & Restrictions for Lola Creek Ranch Homeowners Association, Inc. is made by KBE Management Company Series 8 ("**Declarant**"), on the date signed below. Declarant owns the real property described in Appendix A and Appendix E of this Declaration, together with the improvements thereon.

Declarant desires to establish a residential subdivision under Section 209 of the Texas Property Code known as Lola Creek Ranch Homeowners Association, Inc. Declarant further desires to provide for the preservation, administration, and maintenance of portions of Lola Creek Ranch Homeowners Association, Inc., and to protect the value, desirability, and attractiveness of Lola Creek Ranch Homeowners Association, Inc. As an integral part of the development plan, Declarant deems it advisable to create a property owners association to perform these functions and activities more fully described in this Declaration and the other Governing Documents described below.

Declarant DECLARES that the property described in Appendix A and Appendix E, and any additional property made subject to this Declaration, will be owned, held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, and easements of this Declaration, including Declarant's rights and reservations in Appendix B and Appendix C attached hereto, which run with the real property and bind all parties having or acquiring any right, title, or interest in any part of the property, their heirs, successors, and assigns, and inure to the benefit of each owner of any part of the property. Declarant intends for the encumbrance and subjugation of Lola Creek Ranch Homeowners Association, Inc. by this Declaration to be in accordance with the common law doctrines of restrictive covenant and implied equitable servitudes.

ARTICLE I
DEFINITIONS

Section 1.1. Defined Terms. The following words and phrases, whether or not capitalized, have specified meanings when used in the Governing Documents, unless a different meaning is apparent from the context in which the word or phrase is used. Terms pertaining to development of the Property are Identified in the following Section.

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

b. "**ARC**" or "**Architectural Review Committee**" means the committee appointed by the Association with jurisdiction over architectural matters pertaining to existing homes on improved lots in the Property.

c. "**Architectural Reviewer**" means the entity having jurisdiction over a particular application for architectural approval. The exclusive Architectural Reviewer for new homes on vacant lots is Declarant or Declarant's designee. The ARC is the Architectural Reviewer for existing homes on Improved lots.

d. "**Assessment**" means any charge levied against a lot or owner by the Association, pursuant to the Governing Documents or applicable law, including but not limited

to the types of assessments defined in the Covenant for Assessments Article of this Declaration.

e. "**Association**" means the association of owners of lots in the Property, and serving as the "property owners' association" defined in Section 202.001(2) of the Texas Property Code. The initial name of the Association is Lola Creek Ranch Homeowners Association, Inc.

f. "**Board**" means the board of directors of the Association.

g. "**City**" means the City of Boyd, Texas, in which the Property is located.

h. "**Class**" means a class of membership in the Association, as described in Appendix C of this Declaration.

i. "**Common Area**" means a portion of the Property that is not a "Lot" and which is identified on a plat or in this Declaration as intended, reserved, or dedicated for use, maintenance, or ownership by the Association, and any real property that is maintained or owned by the Association for the use or benefit of owners and residents, regardless of how it is platted. In most contexts, "common area" may be used interchangeably with "common property."

j. "**Common Property**" means real property, improvements to real property, and personal property that is used, maintained, or owned by the Association for the use or benefit of owners and residents, and may also include the common areas of Lola Creek Ranch Homeowners Association, Inc. In most contexts, "common property" may be used interchangeably with "common area."

k. "**Declarant**" means KBE Management Company Series 8, or the successors and assigns of KBE Management Company Series 8, which acquire the status of Successor Declarant according to the terms of the Successor Declarant section of Appendix B of this Declaration.

l. "**Declaration**" means this document, as it may be amended, supplemented, and restated from time to time.

m. "**Governing Documents**" means, singly or collectively as the case may be, the Plat, this Declaration, the Bylaws of the Association, the Articles of Association, the Rules of the Association, and any other document that affects the relationship of owners to the Property, to the Association, or to each other, as any of these may be adopted, amended, supplemented, restated, or repealed from time to time. Although Governing Documents reference each other and may be recorded contemporaneously, each instrument is independent and may be amended pursuant to its own terms or applicable law. Declarant may adopt, amend, restate, or repeal the initial Governing Documents.

n. "**Lot**" means a portion of the Property, as shown on the Plat, intended for independent ownership and construction of a dwelling. As a defined term, a "lot" is not a common area, even if a common area is platted and numbered as a lot, and does not become a common area if acquired by the Association. Where the context indicates or requires, "lot" includes all improvements thereon and any portion of a right-of-way that customarily is used exclusively by and in connection with the lot. For certain purposes, the Governing Documents may distinguish between vacant lots and improved lots. As used in the Governing Documents, a "**vacant lot**" is a lot on which a dwelling has never been built or a lot on which the initial dwelling is under construction, and an "improved lot" is a lot on which the initial dwelling is or was substantially complete or completed. An improved lot retains its status even if the initial improvements are removed or destroyed.

o. "**Member**" means a member of the Association, unless the context indicates that member means a member of the board or a member of a committee of the Association.

p. "**National Lender**" means a nationwide institutional quasi-public mortgage lender, mortgage purchaser, mortgage insurer, mortgage underwriter, or mortgage guarantor, such as Federal Home Loan Mortgage Corporation (Freddie Mac), Federal Housing Administration (HUD/FHA), Federal National Mortgage Association (Fannie Mae), or U.S. Department of Veterans Affairs (VA), singly or collectively.

q. "**Owner**" means a holder of recorded fee simple title to a lot. Declarant is an owner for each lot owned by Declarant. A Builder who acquires title to a lot for the purpose of constructing a house for sale to homebuyers is an owner. Mortgagees and creditors who acquire title to a lot through foreclosure or a deed in lieu of foreclosure are owners. Persons or entities having ownership interests merely as security for the performance of an obligation are not owners. Every owner is a member of the Association.

r. "**Plat**" means all plats, singly and collectively, recorded in the Real Property Records of Wise County, Texas, and pertaining to the real property that is subject to this Declaration, including all dedications, covenants, limitations, restrictions, easements, notes, and reservations shown on the plat, as it may be amended from time to time.

s. "**Property**" means all the land subject to this Declaration and all improvements, easements, rights, and appurtenances to the land. The name of the Property is Lola Creek Ranch Homeowners Association, Inc., even if portions of the Property are platted with different subdivision names. The Property includes (1) the land described in Appendix A and Appendix E of this Declaration, as it may be amended or supplemented from time to time, (2) the land described in a supplemental declaration (if any) executed by Declarant pursuant to this Declaration, and (3) any land made subject to this Declaration pursuant to the Annexation Section of this Declaration, and includes every lot and any common area thereon.

t. "**Resident**" means an occupant of a dwelling, regardless of whether the person owns the lot.

u. "**Rules**" means the rules - singly and collectively - of the Association adopted by the Association in accordance with the Governing Documents or applicable law, and which are contained in one or more writings which may be referred to by a variety of names, such as (without limitation) rules, regulations, guidelines, procedures, manuals, policies, standards, and resolutions, all of which are Governing Documents. if customary, rules may be "published" on signs posted or painted on the Property, or communicated to owners as temporary or seasonal rules that are circumstance-based. Rules may properly be used to refer to an instrument, sign, or communique that contains rules, and may also be used to refer to the individual rules within an instrument, sign, or communique.

Section 1.2. Development Terms. The following defined terms pertaining to development of the Property are contained in Appendix B and Appendix C of this Declaration, and hereby incorporated by reference: (1) **Additional Land**, (2) **Builder**, (3) **Build-Out**, (4) **Declarant Control Period**, (5) **Development Period**, (6) **Expansion Period**, (7) **Sell-Out**, (8) **Shortfall**, and (9) **Unilaterally**.

ARTICLE II
SUBJECT TO DOCUMENTS

Section 2.1. Subject to Documents of Record. All real property subject to this Declaration, including the property described in Appendix A and Appendix E, and any other real property that is made subject to this Declaration, is held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms of all publicly recorded Governing Documents, and all other publicly recorded instruments that touch and concern the land, run with the Property, and bind all parties having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns. This Declaration may contain certain disclosures about publicly recorded or publicly accessible documents that do or may affect the Property. Such disclosures are not intended to identify every publicly recorded or publicly accessible document affecting the Property. Neither the Association nor Declarant makes any representation that these are the only noteworthy documents affecting the Property. Every prospective owner and resident must make an independent investigation of documents affecting the Property, and make inquiries of anything that concerns him.

Section 2.2. Covenants in Plat. The dedications, covenants, limitations, restrictions, easements, notes, and reservations shown on the plat are hereby incorporated by reference as covenants running with the land. Each owner must inform himself about the plat's covenants on his lot and those affecting his use or enjoyment of the lot and common areas. Similarly, the Association is bound by platted covenants, if any,

Section 2.3. Subject to Platting. On the date of this Declaration, a portion of the Property described in Appendix A and Appendix E may be unplatted. Declarant expects the Property to be platted in phases. Declarant is not required to amend or supplement this Declaration to identify those portions of the Property that are platted. If a law or interpretation of law benefitting developers of subdivisions pertains to the annexation of additional land, for purposes of applicability to this Property, the law or interpretation may be construed as an increase in the number of house lots by platting, if such construction is desired by Declarant.

Section 2.4. Declarant Rights. The rights of Declarant in the Declaration, particularly in Appendixes B and C attached hereto, override and supercede every provision of this Declaration and the other Governing Documents for the applicable periods of time. Accordingly, some provisions in this Declaration do not apply during Build-Out or Sell-Out, or during the Declarant Control or Development Periods.

Section 2.5. Additional Restrictions. Portions of the Property may be subjected to additional or different restrictions, such as restrictions on recorded plats of certain phases, or construction, fence, or use restrictions that are specific to a portion of the Property. Subjecting a portion of the Property to additional or different restrictions is accomplished by recording the restrictions in the Real Property Records of Wise County, Texas, typically as an amendment or supplement of this Declaration or the dedicatory instruments of the Association.

Section 2.6. Owner Agrees to be Bound. Each owner, by impliedly or expressly accepting or acquiring an ownership interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to be bound by this Declaration, the plat, and the other Governing Documents. By acquiring the ownership interest before the Property is fully developed, expanded, Built-Out, and Sold-Out, each owner covenants, agrees, and acknowledges that Appendixes B and C of this

Declaration are controlling over anything to the contrary in the main body of this Declaration. Further, each owner acknowledges that each Governing Document may be amended, supplemented, or restated from time to time. Each owner also agrees to maintain any easement that crosses his lot and for which the Association does not have express responsibility.

ARTICLE III
CERTAIN PROPERTY FEATURES

Section 3.1. Limited Disclosures. The plat, this Declaration, the other Governing Documents, future websites maintained by or for the Association, print or electronic materials used in marketing or describing the Property, and any other type of document or resource related to the Property, may contain certain disclosures about the Property and its location to help inform prospective and current owners and residents about select features or attributes of the Property. Such disclosures are not intended to identify every feature, attribute, condition, or unusual aspect of the Property that may affect property values or the quality of life within the Property. Such disclosures are not intended to, and do not, constitute a full disclosure of the disclosed feature, attribute, or condition. Providing a disclosure does not create a duty for Declarant or the Association to make additional disclosures. Neither the Association nor Declarant makes any representation that published disclosures are the only noteworthy or most significant features of the Property. Every prospective owner and resident must make an independent inspection and investigation of the lot and the Property, its location, adjoining and nearby land uses, and publicly accessible documents and resources affecting the lot and the property, and has a duty to make inquiries of anything that concerns him.

Section 3.2. Land Use. By acquiring an ownership interest in a lot, each owner acknowledges that the ownership, uses, platting, and development of land within, adjacent to, or near the Property may change over time, and from time to time, and that such a change may affect the value of owner's lot. Whether an owner is consulted about a proposed change to real property within the vicinity of the owner's lot is a function of local government, and not a function of the Association. Nothing in this Declaration or the other Governing Documents may be construed as a representation of any kind by the Association, Builders, or Declarant as to current or future uses - actual or permitted - of any land that is adjacent to or near the Property, regardless of what the plat shows as potential uses of adjoining land. The Association, Builders, and Declarant cannot and do not guaranty scenic views, volumes of traffic on streets around and through the Property, availability of schools or shopping, or any other aspect of the Property that is affected by the uses or conditions of adjacent or nearby land, water, or air. Words, acronyms, labels, and legends used on a plat to describe land uses are imprecise terms which may be modified by subsequent acts and decisions by public or quasi-public authorities without the formality of amending the plat.

Section 3.3. Dirt Disclosure. No representation is made that any lot or common area in Lola Creek Ranch Homeowners Association, Inc. is on native virgin soil or that the soil has a particular nutritional value for plants. This disclosure is made to give inquiry notice to prospective owners, who may make their own determinations about the composition and nutriments of the material on and beneath the surface of any lot in the Property.

Section 3.4. Environmental Conditions. In the era in which this Declaration is written, the public is increasingly aware of environmental conditions affecting health and quality of life. The Association has no duty to intervene on behalf of an owner or resident who complains of adverse environmental conditions. If a resident is or becomes sensitive to environmental conditions that now exist or that come

into existence at a future time on or near the Property, the resident - at the resident's sole expense - may mitigate those conditions in his home and on his lot, provided the method of mitigation does not damage or interfere with the use of another lot or common area, and does not change the appearance of the Property, without approval of the ARC.

Section 3.5. County Ordinances. No amendment of the Governing Documents nor any actor decision of the Association may violate the requirements of County ordinances pertaining to the Property. The Association should stay informed about the County's requirements for the Property, which may change from time to time.

Section 3.6. Streets within Property. Streets within the Property are public property and subject to all state, local, or federal laws related to public streets, roadways, and thoroughfares.

ARTICLE IV
PROPERTY EASEMENTS AND RIGHTS

Section 4.1. General. The easements and rights contained in this Article are in addition to, and not in place of, easements and rights established by other publicly recorded documents, such as the plat and the other Governing Documents. Neither the Association nor Declarant makes any representation that these are the only noteworthy easements and rights affecting the Property. Every prospective owner and resident must make an independent investigation of easements and rights affecting the Property, and make inquiries of anything that concerns him.

Section 4.2. Surface Water Easement. By acquiring an ownership interest in a lot, each owner acknowledges that surface water does not respect property lines and that, from time to time, water may flow through and over portions of the lot from adjacent and nearby property. Each lot is hereby burdened with a perpetual easement (the "**Surface Water Easement**") over, across, under, and through the lot for continuous positive drainage of surface or storm water from adjacent and nearby property for the mutual benefit of all lot owners and the Association, regardless of whether or how the Surface Water Easement is shown on a plat or referenced in an instrument of conveyance. No person may interfere with the established drainage pattern over any part of the Property unless an adequate alternative provision for proper drainage has been approved by the board. Specifically, no person may do anything to a lot or to adjacent property to change the positive drainage pattern for Lola Creek Ranch Homeowners Association, Inc. In an attempt to alleviate the accumulation of surface water, Lola Creek Ranch Homeowners Association, Inc. has installed two Stormwater Detention areas.

Section 4.3. Owner's Easement of Enjoyment. Every owner is granted a right and easement of enjoyment over the common areas and to use of improvements therein, subject to other rights and easements contained in the Governing Documents. An owner who does not occupy a lot delegates this right of enjoyment to the residents of his lot. Notwithstanding the foregoing, if a portion of the common area, such as a recreational area, is designed for private use, the Association may temporarily reserve the use of such area for certain persons and purposes.

Section 4.4. Owner's Ingress/Egress Easement. Every owner is granted a perpetual easement over the Property's streets, as may be reasonably required, for vehicular ingress to and egress from his lot.

Section 4.5. Owner's Right to Build. That a lot remains vacant and unimproved for a period of years, even decades, does not diminish the right of the lot owner to construct a dwelling on the lot. Nor does a vacant lot enlarge the rights of owners of neighboring lots, who may have become so accustomed to the open space that they expect it to remain unimproved forever. A Lot Owner has 120 days from the date of acquisition of title to the Lot to begin construction. Construction must be completed within eighteen (18) months of commencement of construction.

Section 4.6. Common Area Disclosure. Declarant does not expect all phases of Lola Creek Ranch Homeowners Association, Inc., as described on the attached Appendix A, to be platted with common areas. This Section addresses the mere possibility of a common area in real property which is made subject to this Declaration.

a. **Ownership & Maintenance**. The designation of real or personal property as common property may be determined by the plat, this Declaration, the Appraisal District, a taxing authority, a recorded deed into the Association, or any combination of these. Mere ownership of the property is not determinative. All costs attributable to common property, such as (if applicable) maintenance, property taxes, insurance, and enhancements, are automatically the responsibility of the Association, regardless of the nature of title to the common property, unless this Declaration elsewhere provides for a different allocation for a specific common area.

b. **Use.** The Association determines the use of every common area, and may change the use from time to time. As a general rule, a common area may be used only for the purposes for which the common area is designed, uses that are customary for that type of common area, and uses authorized by the Association. No portion of a common area may be "privatized" or used as an extension of a home or yard. On the date of this Declaration, the Property's common areas are intended for the exclusive use of Lola Creek Ranch Homeowners Association, Inc. owners and residents and their guests and are not intended to be a public accommodation or a public facility within the meaning of the Americans with Disabilities Act. This provision may not be construed to prevent the Association from enlarging the use of a common area if such expansion is deemed to be in the best interest of the Association, or from opening a common area to use by the public if public use is a condition of a status or benefit that is deemed to be in the best interest of the Association.

c. **Change of Use**. From time to time, the Association may modify common property

c. on a temporary or long-term basis to respond to changing lifestyles, economies,

c. environmental conditions, public policies, or recreational values, provided (1) the board deems the modification to be in the best interest of the Association, and (2) the modification does not affect an agreement with or requirement of a public or quasi-public entity without the entity's written approval of the modification. Modification may include (without limitation) a change of use, or the removal, addition, re-location, or change of improvements on a common area or improvements that are common property. Unless required by a public or quasi-public entity, a modification does not require an amendment of this Declaration or of the plat, even if a common area was platted or improved for a particular use.

d. **Conveyance by or to Association.** The Association, acting through its board, must

accept or convey a real property interest in a common area from or to, as the case may be, Declarant, a special district, a local government, or any other public or quasi-public entity, if the conveyance is required by the Declarant, district, government, or entity, or if the conveyance is necessary to fulfill the original development plan for the Property or to adjust to a change in the original development plan. Any conveyance of a common area, except to and from Declarant, or with Declarant's approval, must be approved by the board and by owners of at least a majority of the lots. Property interests capable of conveyance include, without limitation, fee title to all or part of a common area, an easement across real property, and a lease or license of real property. Notwithstanding anything to the contrary in this Declaration, if the Property is subject to a special district, the special district may acquire responsibility for, control of, or ownership of what has been designated a common area. The authority of the special district is superior to that of the Association.

e. **Acceptance.** By accepting an interest in or title to a lot, each owner is deemed (1) to accept the Property's common property and common areas, and any improvement thereon, in its then-existing "as is" condition; (2) to acknowledge the authority of the Association for decisions pertaining to common property; (3) to acknowledge that transfer of a common area's title to the Association by or through the Declarant or by a third party with Declarant's approval is a ministerial task that does not require acceptance by the Association; and (4) to acknowledge the continuity of maintenance of the common property, regardless of changes in the Association's board of directors or management.

f. **Components.** Common property may be improved or unimproved, and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests. The common property of the Property consists of the following components on, within, or adjacent to the Property, even if located on a lot or a public right-of-way:

1. All of the Property, save and except the house lots.
2. Any land described as common area or an area to be maintained by the Association (1) in Appendix A and Appendix E of this Declaration, (2) in a supplemental declaration, (3) in a deed to the Association, or (4) in an agreement with the City, County, or Public Utility District.
3. Any area shown on the plat as common area or an area to be maintained by the Association.
4. Any modification, replacement, or addition to any of the above-described areas and improvements.
5. Personal property owned by the Association, such as books and records, office equipment, supplies, and furniture.

g. **Risk.** Each resident uses all common areas at his own risk. All common areas are unattended and unsupervised. Each resident is solely responsible for his own safety and that of his guests. The Association and Declarant disclaims any and all liability or responsibility for injury or death occurring from use of the common areas.

Section 4.7. Association's Access Easement. Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, grants to the Association an easement of access and entry over, across, under, and through the Property, including without limitation

all common areas and the owner's lot and all improvements thereon for the below-described purposes. **Access provided by an owner must allow a person to work on the lot without interruption, interference, harassment, or fear, and may not create additional duties for the worker.** If the exercise of this easement requires entry onto an owner's lot, the Association will try to limit its entry according to a schedule that is available to owners, or during reasonable hours and after notice to the owner, unless entry is a response to a situation that - at time of entry - is deemed by the Association to be an emergency that may result in imminent damage to or loss of life or property. In exercising this easement on an owner's lot, the Association is not liable to the owner for trespass. The Association may not use this Section as authority to enter a locked or occupied dwelling without the prior consent of the lot owner. The Association may exercise this easement of access and entry for the following express purposes:

a. To inspect the lot for compliance with maintenance and architectural standards.
b. To perform maintenance that is permitted or required of the Association by the Governing Documents or by applicable law.
c. To perform maintenance that is permitted or required of the owner by the Governing Documents or by applicable law, if the owner fails or refuses to perform such maintenance.
d. To enforce architectural standards.
e. To enforce use restrictions.
f. To exercise any self-help remedy permitted by the Governing Documents or by applicable law.
g. To enforce any other provision of the Governing Documents.
h. To respond to emergencies.
i. To assist utility providers as may be necessary to install, maintain, and inspect utilities serving any portion of the Property.
j. To perform any and all functions or duties of the Association as permitted or required by the Governing Documents or by applicable law.

Section 4.8. Utility Easement & County Right of Ways. As used in this Declaration, "**utility**" means every utility and utility-type of function, service, or equipment, whether the provider is public or private, such as (without limitation) water, storm drainage, sewer, trash removal, electricity, fuel, natural gas, telephone, cable television, internet service, fiber optic cable, security, and other telecommunication receiving and distribution systems. This Section may not be construed as a representation that any particular utility will be provided. The Association may grant permits, licenses, and easements over common areas for utilities, roads, and other purposes necessary for the proper operation of the Property. A company or entity, public or private, furnishing utility service to the Property, is hereby granted an easement over the Property for ingress, egress, meter reading, installation, maintenance, repair, or replacement of utility lines and equipment, and to do anything else necessary to properly maintain and furnish utility service to the Property. The Association may enter into contracts for utility equipment and services for all or portions of the Property, including bulk rate service agreements. Such contract may provide for installation, operation, management, maintenance, and upgrades or modifications to the utility as the Association determines appropriate. Until Build-Out, Declarant must approve any contract for utility service to a vacant lot. If a particular service or benefit is provided to fewer than all of the lots, or is requested by owners of fewer than all of the lots, the Association may require an owner to pay the service provider directly, or may levy individual assessments against the served lots to fund the expense. No Owner may place any landscaping or structure within a utility easement, county right of way, or on common area without the express written consent of the utility company with control over the easement

area, as well as the written approval of the ARC.

Section 4.9. Mineral Interests. On the date of this Declaration, it is expected that all mineral interests and water rights will have been reserved by a prior owner of the Property or conveyed pursuant to one or more deeds or other instruments recorded in the Real Property Records of Wise County, Texas, including but not limited to rights to all oil, gas, or other minerals and water lying on, in, or under the Property and surface rights of ingress and egress. Because the instruments conveying or reserving mineral interests and water rights were recorded prior to this Declaration, those interests in the Property are superior and are not affected by any provision to the contrary in this Declaration. By accepting title to or interest in a lot, every owner acknowledges the existence of the mineral and water rights or reservations referenced in this Section and the attendant rights in favor of the owner or owners of the mineral interests.

Section 4.10. Oil & Gas Activity. In the era in which this Declaration is written, there is renewed interest in oil and gas exploration. Owners and occupiers of real property located anywhere in Texas must be aware that activities related to the exploration, drilling, storage, and transportation of oil, gas, and other minerals may occur, from time to time, within, adjacent to, or in the vicinity of the real property that is owned or occupied, typically pursuant to prior-recorded easements, rights, reservations, and mineral deeds. Prospective owners and residents of Lola Creek Ranch Homeowners Association, Inc. are encouraged to inform themselves about past, current, or potential future oil and gas activity within, adjacent to, or in the vicinity of the Property, and to evaluate the potential effects of such activity on ownership or occupancy of a lot. The Notice of Possible Oil & Gas Activity Affecting the Subdivision attached hereto as Appendix D is incorporated by reference.

Section 4.11. Notice of Limitation on Liability. Notwithstanding plat notes or public codes or ordinances now in existence or hereafter created, the Association cannot and should not be liable for acts of God or for property damage that is not the result of the Association's negligence or willful misconduct. On behalf of the Association, Declarant hereby gives notice that the Association does not accept liabilities for which the Association cannot obtain insurance at a reasonable cost, or for which its members refuse to fund reserve accounts at levels sufficiently high to pay the damages for which the governmental entity may seek to make the Association liable. Further, this notice may not be construed to create a duty for the Association to obtain insurance or to fund reserve accounts for damage from rising waters.

Section 4.12. Security. The Association may, but is not obligated to, maintain or support certain activities within the Property designed, either directly or indirectly, to improve safety or the perception of safety in or on the Property. Each owner and resident acknowledges and agrees, for himself and his guests, that Declarant, Builders, the Association, and their respective directors, officers, committees, agents, and employees are not providers, insurers, or guarantors of security within the Property. Each owner and resident acknowledges and accepts his sole responsibility to provide security for his own person and property, and assumes all risks for loss or damage to same. Each owner and resident further acknowledges that Declarant, Builders, the Association, and their respective directors, officers, committees, agents, and employees have made no representations or warranties, nor has the owner or resident relied on any representation or warranty, express or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire, burglar, or intrusion systems recommended or installed, or any security measures undertaken within the Property. Each owner and resident acknowledges and agrees that

Declarant, Builders, the Association, and their respective directors, officers, committees, agents, and employees may not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

ARTICLE V
ARCHITECTURAL COVENANTS & USE RESTRICTIONS FOR IMPROVED LOTS

Section 5.1. General Provisions. Because the lots are part of a single community, this Declaration creates rights to regulate the improvement, design, use, and appearance of the lots in order to preserve and enhance the Property's value and Declarant's architectural vision for the Property, as the vision evolves.

a. **Subject to Statutory Law.** All provisions within this Article V are subject to Texas statutory law, including, but not limited to, Section 209.00505 of the Texas Property Code.

b. **Applicability.** This Article purposefully distinguishes between vacant and improved lots because of the separation of approval authorities"' the ARC has authority over improved lots, the Declarant or its appointed Architectural Reviewer has authority over vacant lots. If a provision of this Article is not clear as to its applicability, it will be construed to apply to Improved lots only.

c. **Purposes.** One purpose of this Article is to require that all proposed improvements on a lot - vacant or improved - be subject to review, approval, and disapproval. Another purpose is to promote and ensure the level of taste, design, and quality by which improved lots in the Property are maintained, modified, and further improved over time. A third purpose is to prevent modifications on improved lots that may be considered to be radical, curious, odd, bizarre, or peculiar in comparison to then existing improvements or the evolving architectural vision for the Property. A fourth purpose is to regulate the appearance of every aspect of proposed or existing improvements on an improved lot, including but not limited to replacement dwellings, additions, fences, landscaping, retaining walls, yard art, sidewalks and driveways.

Section 5.2. Owner's Duty. By accepting an interest in or title to a vacant or improved lot in Lola Creek Ranch Homeowners Association, Inc., **each owner covenants to make no changes or additions to the owner's lot or to Improvements on the lot without the Architectural Reviewer's prior written approval** - the ARC being the Architectural Reviewer for improved lots. Also, each owner of a vacant or improved lot in Lola Creek Ranch Homeowners Association, Inc., and each resident of Lola Creek Ranch Homeowners Association, Inc., by occupying a home in the Property, acknowledges that the improvement, modification, appearance, maintenance, and use of the lot and home are regulated by the Governing Documents, in particular this Declaration. Each owner and resident further covenants to comply with and conform to the applicable restrictive covenants and any design guidelines promulgated by the Association. Also, each owner and resident will follow the customary procedures for applying for an approval, waiver, or variance by the board or the ARC, as applicable, and will abide by the outcome. Each owner of a vacant lot will follow the customary procedures of the Architectural Reviewer for vacant lots.

Section 5.3. Specification Sources. Specifications for the construction of initial improvements on vacant lots are not published in this Declaration, and may be part of a private agreement between

Declarant and a Builder. This Section serves as notice of multiple sources of specifications pertaining to the initial construction or subsequent modification of Improvements in Lola Creek Ranch Homeowners Association, Inc.

Section 5.4. Architectural Review Committee. The Architectural Review Committee (the "**ARC**") is a committee of the Association. The ARC will consist of at least 3 but not more than 7 persons appointed by the board. Members of the ARC serve at the pleasure of the board and may be removed and replaced at the board's discretion. Members of the ARC need not be owners or residents. The Association may hire professionals - such as architects, engineers, and design consultants - to serve on or to advise the ARC at a compensation determined by the board.

a. **Limits on Liability.** The ARC and each of its members has no liability for decisions made in good faith by the ARC, and which are not arbitrary or capricious. The ARC is not responsible for: (1) errors in or omissions from the plans and specifications submitted to the ARC, (2) supervising construction for the owner's compliance with approved plans and specifications, or (3) the compliance of the owner's plans and specifications with governmental codes and ordinances, and public laws.

b. **Discretion.** The ARC may exercise discretion with respect to taste, design, and all standards specified by this Declaration or by the design guidelines as set forth within the dedicatory instruments of the Association.

c. **Variations.** All lots are not similarly situated. One lot may be more visible than others because of its location, size, or elevation. For example, a comer lot or a lot at the Property's entrance is typically more visible than an interior lot. The ARC may vary its interpretation and enforcement of construction specifications and use restrictions based, in part, on a lot's location or visibility - provided the ARC tries to treat similarly-situated lots or circumstances in like manner.

d. **Appeal of ARC Decision.** A decision by the ARC denying an application or request by an owner for the construction of improvements in the subdivision may be appealed to the board. A written notice of the denial must be provided to the owner in in writing. All appeals of ARC denials shall follow the guidelines and procedures as set forth within Section 209.00505 of the Texas Property Code.

Section 5.5. ARC Approval Required. Without ARC approval, a person may not re-construct a dwelling on an improved lot or make an addition, alteration, improvement, installation, modification, redecoration, or reconstruction of or to an improved lot, or to a vacant lot owned by a person other than Declarant or a Builder, if it will be visible from a street or common area, or if it may have an adverse impact on neighboring homes. The ARC has the right but not the duty to evaluate every aspect of construction, landscaping, and property use that may adversely affect the general value or appearance of the Property. Without the ARC's prior written approval for a variance, alterations and additions to an improved lot, or to a vacant lot owned by a person other than Declarant or a Builder, must have the characteristics described in the dedicatory instruments of the Association. In case of conflict between the terms of this Article or the dedicatory instruments of the Association, and a restriction or guideline that pertains directly to the portion of the Property in which a lot is located, the more lot-specific restriction controls. The ARC may supplement this Article and the dedicatory instruments of the Association with interpretations, explanations, and adaptations. An owner should review the

Association's architectural restrictions and requirements before planning or initiating changes, repairs, or replacements to his lot and dwelling.

Section 5.6. Application for Approval. To request architectural approval, an owner must make written application to the applicable Architectural Reviewer and submit 2 identical sets of plans and specifications showing the nature, kind, shape, color, size, materials, and locations of the work to be performed. In support of the application, the owner of an improved lot may but is not required to submit letters of support or non-opposition from owners of lots that may be affected by the proposed change. The application must clearly identify any requirement of this Declaration or the dedicatory instruments of the Association for which a variance is sought. The Architectural Reviewer will return one set of plans and specifications to the applicant marked with the Architectural Reviewer's response, such as "Approved," "Denied," or "More Information Required." The Architectural Reviewer will retain the other set of plans and specifications, together with the application, for the Architectural Reviewer's files. Verbal approval by an Association director or officer, a member of the ARC, the Association's manager, or Declarant does not constitute architectural approval by the appropriate Architectural Reviewer, which must be in writing.

a. **Deemed Approval**. Under both of the limited conditions identified below, the applicant may presume that his request has been approved by the ARC. If both of those conditions are satisfied, the owner may proceed, provided he adheres to the plans and specifications which accompanied his application, and provided he initiates and completes the applied-for work in a timely manner. In exercising deemed approval, the burden is on the owner to document the ARC's actual receipt of the owner's complete application. Under no circumstance may approval of the ARC be deemed, implied, or presumed for an addition or modification that would require a variance from the requirements and construction specifications contained in this Declaration or the dedicatory instruments of the Association, and in any design guidelines for the Property in effect at the time of application. The limited conditions that must be met for deemed approval are:
   1. If the applicant or a person affiliated with the applicant has not received the ARC's written response - approving, denying, or requesting additional information - within 60 days after delivering his complete application to the ARC; and
   2. If the proposed addition or modification strictly conforms to requirements and specifications contained in this Declaration or the dedicatory instruments of the Association, and in any design guidelines for the Property in effect at the time of application.

b. **No Approval Required.** No approval is required to repaint exteriors in accordance with a color scheme approved by the ARC or set forth within the dedicatory instruments of the Association or to rebuild a dwelling in accordance with its original plans and specifications. Nor is approval required for an owner to remodel or repaint the interior of a dwelling.

c. **Building Permit.** If the application is for work that requires a building permit from a governmental body, the ARC's approval is automatically and implicitly conditioned on the issuance of the appropriate permit. The ARC's approval of plans and specifications does not mean that they comply with the requirements of the governmental body. Alternatively, issuance of a building permit does not ensure ARC approval.

d. **Neighbor Input.** The ARC may solicit comments on the application, such as from

owners or residents of lots that may be affected by the proposed change, or from which the proposed change may be visible. Whether to solicit comments, from whom to solicit comments, and whether to make the comments available to the applicant are solely at the discretion of the ARC. The ARC is not required to respond to the commenters in ruling on the application.

e. **Initial Variances for Vacant Lots.** A lot does not come within the jurisdiction of the ARC until the initial improvements on a vacant lot have been completed. An aspect of an initial improvement that is contrary to this Declaration or the dedicatory instruments of the Association may have been granted a variance by the Architectural Reviewer for vacant lots.

Section 5.7. Time Limits. In approving an application, the Architectural Reviewer may specify maximum dates for starting and completing the proposed work, which dates may be tailored to the circumstances of the application and the nature of the proposed work. If the work has not commenced by the specified start date, the approval is void and the owner must re-apply for approval. Once started, the work must be completed with due diligence. In the absence of time periods specified in the Architectural Reviewer's approval, the work must be started within 60 days from the date of application approval, and must be completed within 90 days from the date the work commences. In most cases, the commencement of work must be apparent at a site inspection and does not pertain to planning. The deadlines of this Section are subject to force majeure and may be extended if the approved work cannot be started or completed due to causes that are outside the control of the owner and its contractors and which could not be evaded through the exercise of due care, such as natural disasters. An approval automatically expires on the earlier of completion of the work for which approval was granted, or one year after date of approval. This Section does not apply to improvements made by Declarant or to the construction of new homes.

Section 5.8. Co-Adjacent Lot. This Section applies to Lola Creek Ranch Homeowners Association, Inc. as long as applicable law defines "adjacent lot" and "residential purpose" as it does in Property Code Sec. 209.015 in effect on the date of this Declaration. This Declaration and the other Governing Documents are drafted with the expectation that every platted residential lot owned by a person other than Declarant will be Improved with a dwelling, unless the lot is conveyed to the Association or to a Public Agency. This Section pertains to the atypical situation of a vacant lot (the "**Co-Adjacent Lot**") that is adjacent to a lot with a dwelling (the "**Dwelling Lot**"), and is used in conjunction with the Dwelling Lot, both lots having the same owner - a situation which is addressed by State law. Because there may be no Co-Adjacent Lot in the Property, this Declaration and the other Governing Documents do not specifically address how provisions intended for lots Improved with dwellings are to be applied to Co-Adjacent Lots. Therefore, notwithstanding anything to the contrary in a Governing Document, the following provisions apply. A Co-Adjacent Lot may be used by the owner of the Dwelling Lot only for "residential purposes" as defined by applicable law, or for any additional purpose permitted by the Architectural Reviewer. Notwithstanding provisions (if any) specific to vacant lots in the Property, a Co- Adjacent Lot Is subject to the same assessment liability, at the same rate, as the Dwelling Lot with which it is paired. On a case-by-case basis and to the full extent permitted by applicable law, the Architectural Reviewer may establish and enforce additional or different criteria and specifications for every aspect of the use, maintenance, appearance, and improvement of the Co-Adjacent Lot, including (without limitation) screening, landscaping, and construction

specifications. By owning a Dwelling Lot and a Co-Adjacent Lot, the owner acknowledges that (to the full extent permitted by applicable law) (1) this Section applies to the Co-Adjacent Lot and controls over any provision to the contrary elsewhere in the Governing Documents; (2) a Co-Adjacent Lot may not be used or improved without the prior written approval of the Architectural Reviewer; (3) in reviewing an application for uses or improvements on the Co-Adjacent Lot, the Architectural Reviewer may require additional information specific to the proposed use or improvement; (4) the Architectural Reviewer may establish lot-specific criteria and specifications that are different from or in addition to requirements for lots improved with dwellings, and tailored to the location and visibility of the Co-Adjacent Lot; and (5) the conditioned approval for the Co-Adjacent Lot may be in the form of a covenant agreement to be signed and acknowledged by the owner and by the Architectural Reviewer or the Association, and publicly recorded in Wise County, Texas.

Section 5.9. Variance. The use of the Property is subject to the restrictions contained in this Declaration and in the dedicatory instruments of the Association, as each may be amended from time to time, and subject to rules adopted pursuant to this Article. The board or the ARC, as the case may be, may grant a variance or waiver of a restriction or rule on a case-by-case basis when unique circumstances dictate, and may limit or condition its grant. To be effective, a variance must be in writing. The grant of a variance does not effect a waiver or estoppel of the Association's right to deny a variance in other circumstances. Approval of a variance or waiver may not be deemed, implied, or presumed under any circumstance, other than the limited exceptions authorized by this Declaration or the dedicatory instruments of the Association.

Section 5.10. Association's Right to Promulgate Rules. The Association has the right to adopt, amend, repeal, and enforce reasonable Rules, and penalties for infractions thereof, regarding the occupancy, use, disposition, maintenance, appearance, and enjoyment of the Property. The right to make Rules, or to regulate, includes the right to prohibit or to restrict. In addition to the restrictions contained in this Article and the dedicatory instruments of the Association, each lot is owned and occupied subject to the right of the board to establish Rules, and penalties for infractions thereof, governing:

a. Use of common areas.
b. Hazardous, illegal, or annoying materials or activities on the Property.
c. The use of Property-wide services provided through the Association.
d. The consumption of utilities billed to the Association.
e. The use and occupancy of Common Areas, Common Properties, and Lots within the Association.
f. Landscaping and maintenance of yards.
g. The occupancy and leasing of dwellings, including the promulgation of Rules and Regulations Governing Rental Properties and Short Term Rental Properties.
h. Animals.
i. Vehicles.
j. The collection of delinquent assessments, interest, fines, administrative charges, attorney's fees and the application of payments.
k. Disposition of trash and control of vermin, termites, and pests.
l. Anything that interferes with maintenance of the Property, operation of the Association, administration of the Governing Documents, or the quality of life for residents.

Section 5.11. Association's Right to Post Signs. The Association may post signs on the Property.

If customary and if done or authorized by the Association, rules may be published on signs posted or painted on the Property, or communicated to owners as temporary or seasonal rules that are circumstance-based. Each resident must comply with any rules and signs posted from time to time on the Property by the Association, such as those regulating use of common areas. Also, each resident must comply with notices communicated by the Association, from time to time, in the nature of seasonal or temporary rules, or notice of a change affecting use of the Property. The Association may, but is not required to, recite the text of a sign in a publicly recorded document. In the event of a discrepancy or conflict between a rule that is posted on the Property by the Association and a rule that is in a publicly recorded Governing Document, the posted rule controls if it is posted in a place and manner that is appropriate for the conduct to which it relates.

Section 5.12. Subjective Standards. Standards for some rules and restrictions are inherently subjective, such as what is unattractive or offensive. The Association is not required to honor every resident's individual tolerances. The Use Restrictions, in particular, are not intended to shield a hypersensitive resident from actions or circumstances that would be tolerable to a typical resident of the Property. The Association may refrain from acting on a perceived violation unless the board determines the violation to be significant or a community-wide problem. The Association may not be compelled by one resident to enforce rules and restrictions against another resident. Residents are expected to deal directly and peaceably with each other about their differences.

Section 5.13. Limits to Owner's Rights. No right granted to an owner by this Article or any provision of any Governing Document is absolute. The Governing Documents grant rights with the expectation that the rights will be exercised in ways, places, and times that are customary for the neighborhood. This Article and the other Governing Documents as a whole do not try to anticipate and address every creative interpretation of the restrictions. For example, an owner's right to have a sign advertising the home for sale is not the right to mount the sign on the chimney and illuminate it with pulsating neon lights. The rights granted by this Article and the other Governing Documents are at all times subject to the board's determination that a particular interpretation and exercise of a right is significantly inappropriate, unattractive, or otherwise unsuitable for the neighborhood, and thus constitutes a violation of the Governing Documents. In other words, the exercise of a right or restriction must comply with the spirit of the restriction as well as with the letter of the restriction.

Section 5.14. Limited Role of Declarant. Prior to Build-Out, Declarant may identify to the ARC certain locations, uses, or modifications that must not be approved by the ARC without the prior written approval of Declarant or Declarant's designee to prevent a potentially adverse affect on the value or marketing of vacant lots and new homes in the Property. To illustrate, Declarant may require heightened scrutiny for improved lots near a subdivision entrance, along a main thoroughfare, near common areas, or across the street from a model home.

ARTICLE VI
ASSOCIATION OPERATIONS

Section 6.1. Mandatory Membership. By acquiring an ownership interest in a lot, a person automatically becomes a member of the Association - a mandatory membership Texas property owners association. Membership in the Association is not optional, and may not be severed from ownership of a lot. Conveyance of a lot automatically conveys the Association membership that is appurtenant to the lot,

subject to the right of the Association to require satisfactory proof of conveyance as a condition for changing its membership records. This Section is modified by the Declarant Class Member provision of Appendix C.

Section 6.2. The Association. The existence and legitimacy of the Association are derived from this Declaration and the Bylaws of the Association.

a. **Type.** The Association must be a nonprofit organization, and may be unincorporated or incorporated, as the Association decides from time to time. If the Association is incorporated, the subsequent failure of the Association to maintain its corporate charter from time to time does not affect the existence or legitimacy of the Association.

b. **Applicability.** The Association is subject to the Texas Business Organizations Code ("TBOC"). Because provisions of this Declaration address issues covered by the TBOC, this Declaration is a "Governing Document" as defined by TBOC, and any such provision herein is a "Bylaw" as defined by TBOC. When incorporated, the Association is subject to TBOC Chapter 22 - the Nonprofit Corporation Law. When unincorporated, the Association is subject to TBOC Chapter 252 - the Unincorporated Nonprofit Association Act.

c. **Name.** A name is not the defining feature of the Association. Although the initial name of the Association is Lola Creek Ranch Homeowners Association, Inc., the Association may operate under any name that is approved by the board and (1) registered by the board with the County Clerk of Wise County, Texas, as an assumed name, or (2) filed by the Association with the Secretary of State as the name of the filing entity. The Association may also change its name by amending the Governing Documents. Another legal entity with the same name as the Association, or with a name based on the name of the Property is not the Association, which derives its authority from this Declaration.

d. **Duties.** The duties and powers of the Association are those set forth in the Governing Documents, together with the general and Implied powers of a property owners association and, as applicable, an unincorporated nonprofit association or a nonprofit corporation organized under the laws of the State of Texas. Generally, the Association may do any and all things that are lawful and necessary, proper, or desirable in operating for the peace, health, comfort, and general benefit of its members, subject only to the limitations on the exercise of such powers as stated in the Governing Documents.

e. **Duration.** The Association comes into existence on the later to occur of the two following events: (1) the date on which this Declaration is recorded in the Real Property Records of Wise County, Texas, or (2) the date on which a deed is recorded in the Real Property Records of Wise County, Texas, evidencing diversity of ownership in the Property (that the Property is not owned entirely by Declarant or its affiliates). The Association will continue to exist at least as long as this Declaration, as it may be amended, is effective against all or part of the Property.

Section 6.3. Board. The Association is governed by a board of directors. Unless the Governing Documents expressly reserve a right, action, or decision to another party, such as the owners or Declarant, the board acts in all instances on behalf of the Association. Unless the context indicates otherwise, references in the Governing Documents to the "Association" may be construed to mean "the Association acting through its board of directors." The board of directors may authorize or direct officers of the

Association, who serve at the pleasure of the board, to implement its decisions.

Section 6.4. Members & Voting. Prior to Sell-Out, the Sections of Appendix C titled "Classes of Members" and "Voting" control in lieu of applicable portions of this Section. The Association will have three classes of members – Homeowner Class, Homebuilder Class, and Declarant Class. Each Class shall be a Member of the Association, however, each class may have different rights and responsibilities as set forth within this Declaration. Membership is automatic, mandatory, appurtenant to ownership of a lot, and terminates when the member is divested of his ownership interest in the lot to which it is tied and from which it may not be separated. If a lot is owned by more than one person, the co-owners share the membership and decide for themselves how it will be exercised. The board may require satisfactory evidence of transfer of ownership before a purported owner is recognized by the Association as a member. The one vote appurtenant to each lot is indivisible. All votes are uniform in weight, regardless of the value, size, or location of the lot or its improvements. Cumulative voting is not allowed.

Section 6.5. Head Counts. A reference in a Governing Document or applicable law to a percentage or share of owners or members means owners of at least that percentage or share of the lots, unless a different meaning is specified. For example, "a majority of owners" means owners of at least a majority of the lots. In a different context, to make a point, a representative of the Association who appears before a tribunal on behalf of the Association may properly refer to members of the Association as "citizens" and "voters" in the jurisdiction in which the Property is located, without evidence of citizenship or voter registrations to substantiate the reference. In that context, the actual number of individual owners may be used.

Section 6.6. Decision-Making. Any decision or act of the Association may be made by or at the direction of the board, unless the Governing Documents reserve the decision or act to the members, the Declarant, or any other person or group. Unless the Governing Documents or applicable law provide otherwise, any action requiring approval of the members may be approved (1) at a meeting by owners of at least a majority of the lots that are represented at the meeting, provided notice of the meeting was given to an owner of each lot, or (2) in writing by owners of at least a majority of all lots, provided the opportunity to approve or disapprove was given to an owner of each lot. As long as the Declarant Class exists, Declarant has the right to veto any decision made by the Association which Declarant reasonably expects to have an adverse affect on the rights and interests of Declarant or Builders in completing the development, construction, and marketing of the Property.

Section 6.7. Manager. The board may delegate the performance of certain functions to one or more managers or managing agents of the Association. Notwithstanding a delegation of its functions, the board is ultimately responsible to the members for governance of the Association.

Section 6.8. Communications. Drafted in an era of rapidly changing communication technologies, this Declaration does not intend to limit the methods by which the Association, owners, and residents communicate with each other. Such communications may be by any method or methods that are available and customary, or which are permitted by applicable law. For example, if the Association is required by the Governing Documents or applicable law to make information available to owners of all lots, that requirement may be satisfied by posting the information on the Association's website or by using electronic means of disseminating the information, unless applicable law requires a specific method of communication. It is foreseeable that meetings of the Association and voting on issues may eventually be conducted via technology that is not widely available on the date of this Declaration. As communication technologies change, the Association may adopt as its universal standard any technology that is used by

owners of at least 85 percent of the lots. Also, the Association may employ multiple methods of communicating with owners and residents.

YOU AUTHORIZE THE HOA TO REPRESENT YOU, but only in a few situations.

Section 6.9. Owners Appoint Attorney-in-Fact. Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, automatically appoints the Association, acting through its board, to act as the owner's attorney-in-fact, agent, trustee, or proxy in certain circumstances, in strict accordance with the limited purposes and powers given below with respect to Lola Creek Ranch Homeowners Association, Inc.

a. **Limited Purposes & Powers.** The appointment of the Association as the attorney-in-fact of the owners is limited to the following purposes and powers:
   1. To act as trustee for the owner, to negotiate, receive, administer, and distribute the proceeds of any claim against an insurance policy maintained by the Association.
   2. To act as the official representative of the collective interests of lot owners before administrative or governing bodies, such as taxation, condemnation, and zoning boards, but not In a judicial proceeding or court of law.

b. **Requirements for Association.** At least 10 days before exercising the power of attorney or appointment of agency or trustee created by this Section, the Association must notify the membership of (1) the circumstances that give rise to the exercise, (2) which of the foregoing criteria applies to the exercise, (3) how the Association intends to exercise the power created herein, (4) why the exercise is deemed to be in the best interests of the Association, and (5) the time, date, and place of a forum in which the members can share communications about the proposed exercise.

c. **Duration as to Property.** The Association's authority as attorney in fact for the collective community of owners begins on the date this Declaration is recorded and is perpetual as to the Property unless revoked, in writing, by the Association, as evidenced by an instrument of revocation recorded in the Real Property Records of Wise County, Texas. This power of attorney will not lapse because of a passage of time.

d. **Duration as to Owner**. As to a particular owner, the Association's authority as attorney in fact begins on the date the owner acquires an interest in or title to a lot, and ends when the owner ceases to hold an interest in or title to a lot. Each owner ratifies all acts done under this appointment during the owner's membership in the Association. This power of attorney is not affected by the disability or incapacity of an owner.

e. **Hold Harmless.** Each owner binds himself and his heirs and personal representatives to hold the Association harmless from all claims, demands, losses, damages, actions, and expenses that the Association may sustain or incur in connection with carrying out the authority granted to the Association in this power of attorney.

f. **Abuse.** This Section may not be used to avoid the requirements of the Dispute Resolution Article or to allow the Association to represent owners individually or collectively in a court of law or equity. This Subsection may not be amended, repealed, or otherwise terminated without the prior written and acknowledged

consent of Declarant and, after the Development Period, owners of two-thirds of the lots in the Property.

Section 6.10. Books & Records. All books, records, and financial records shall be open to and reasonably available for examination by an owner within the community or by the owner's designated agent except for those outlined below. An owner or their agent is also entitled to copies of said records. Should an owner designate an agent for inspection of records, such designation must be made in writing and submitted to the Association prior to any inspection or production of any records.

A Records Request must be submitted to the Association in writing, via Certified Mail, Return Receipt Requested to the mailing address of the Association or authorized representative as reflected in this Declaration. The owner's request must describe in sufficient detail the records requested and specify whether the owner is requesting to inspect the records or is requesting copies.

The Association shall reply to such a Records Request by an owner within 10 business days of the receipt of the request. If the Association is unable to produce the records within 10 business days, the Association shall inform the owner of such within 10 business days of the receipt of the owner's request and inform the owner that the information will be available not later than 15 business days from the date of the response to the owner's Records Request.

a. **Inspection Requested:** Should the owner submitting the request seek to inspect documents, the Association shall reply with the dates and times during normal business hours that records will be available for inspection as well as the costs the Association will charge for the inspection of said records. If the Association is unable to produce the records within 10 business days, the Association shall inform the owner of such within 10 business days of the receipt of the owner's request and inform the owner that the information will be available not later than 15 business days from the date of the response to the owner's Records Request.

b. **Copies Requested:** Should the owner submitting the request seek the production of copies of Association records, the Association shall produce all requested records that are within their possession or control within ten business days. If the Association is unable to produce the records within 10 business days, the Association shall inform the owner of such within 10 business days of the receipt of the owner's request and inform the owner that the information will be available not later than 15 business days from the date of the response to the owner's Records Request.

Records may be produced in hard copy, electronic format, or any other format that is reasonably available to the Association.

The Association shall require the advance payment of estimated costs of compilation and production of records. The Association shall charge the costs outlined under Title 1, Rule 70.3 of the Texas Administrative Code. Once an owner has inspected or received copies under the Records Request, a Final invoice shall be delivered to the owner within 30 days of the records production. If the owner does not pay the final amount showing on the invoice within 30 days, then the amount on the invoice shall be added to the owner's account as an assessment. An owner may not be foreclosed upon for non-payment of this balance due. If a refund is due to the owner after a Records Request, then the refund shall be sent along within the Final invoice.

The following records shall be unavailable for copying or inspection without written approval of the owner, or a court order stating that such records must be released:

a. Attorney files and records;
b. Personal information of owners;
c. Violation history of owners;
d. Personal financial information of an owner;
e. Records of payment or non-payment of an owner;
f. Association Employee Information;
g. Contact information of an owner.

Section 6.11. Document Retention Policy.

a. Certificates of formation, bylaws, restrictive covenants, and all amendments to the certificates of formation, bylaws, and covenants shall be retained permanently by the Association.
b. Financial books and records shall be retained for a minimum of seven years.
c. Account records of current owners shall be retained for a minimum of five years.
d. Contracts with a term of one year or more shall be retained for a minimum of four years after the expiration of the contract term.
e. Minutes of meetings of the owners and the board shall be retained for a minimum of seven years.
f. Tax returns and audit records shall be retained for a minimum of seven years.

Section 6.12 Indemnification. The Association indemnifies every officer, director, committee chair, and committee member (for purposes of this Section, "**Leaders**") against expenses, including attorney's fees, reasonably incurred by or Imposed on the Leader in connection with an action, suit, or proceeding to which the Leader is a party by reason of being or having been a Leader. A leader is not liable for a mistake of judgment, negligent or otherwise. A Leader is liable for his willful misfeasance, malfeasance, misconduct, or bad faith. This right to indemnification does not exclude any other rights to which present or former Leaders may be entitled. The Association may maintain general liability and directors and officers liability insurance to fund this obligation. Additionally, the Association may indemnify a person who is or was an employee, trustee, agent, or attorney of the Association, against any liability asserted against him and incurred by him in that capacity and arising out of that capacity. Additionally, the Association may indemnify a person who is or was an employee, trustee, agent, or attorney of the Association, against any liability asserted against him and incurred by him in that capacity and arising out of that capacity.

Section 6.13. Insurance. All insurance affecting the Property is governed by the provisions of this Section, with which the board will make every reasonable effort to comply. The cost of insurance coverages and bonds maintained by the Association is an expense of the Association. Insurance policies and bonds obtained and maintained by the Association must be issued by responsible insurance companies authorized to do business in the State of Texas. The Association must be the named insured on all policies obtained by the Association. Each owner irrevocably appoints the Association as his trustee to negotiate, receive, administer, and distribute the proceeds of any claim against an insurance policy maintained by the Association.

a. **Property.** To the extent it is reasonably available, the Association will obtain

blanket all-risk insurance for insurable common area improvements. If blanket all-risk insurance is not reasonably available, then the Association will obtain an insurance policy providing fire and extended coverage. Also, the Association will insure the improvements on any lot owned by the Association.

b. **General Liability.** To the extent it is reasonably available, the Association will maintain a commercial general liability insurance policy over the common areas - expressly excluding the liability of each owner and resident within his lot - for bodily injury and property damage resulting from the operation, maintenance, or use of the common areas. If the policy does not contain a severability of interest provision, it should contain an endorsement to preclude the insurer's denial of an owner's claim because of negligent acts of the Association or other owners.

c. **Directors & Officers Liability.** To the extent it is reasonably available, the Association will maintain directors and officers liability insurance, errors and omissions insurance, indemnity bonds, or other insurance the board deems advisable to insure the Association's directors, officers, committee members, and managers against liability for an act or omission in carrying out their duties in those capacities.

d. **Other Coverages.** The Association may maintain any insurance policies and bonds deemed by the board to be necessary or desirable for the benefit of the Association, including but not limited to worker's compensation insurance, fidelity coverage, and any insurance and bond requested and required by a National Lender for planned unit developments as long as the National Lender is a mortgagee or an owner.

Section 6.14. Obligations of Owners. This Section supplements and does not replace the duties, responsibilities, and obligations of owners in Lola Creek Ranch Homeowners Association, Inc. that are communicated throughout the Governing Documents.

a. **General Obligations.** Without limiting the obligations of owners under the Governing Documents and pursuant to applicable law, each owner will:
   1. Refrain from interfering with the Association's performance of its responsibilities, such as maintenance of the common areas.
   2. Maintain effective contact information with the Association, and promptly notify the Association of changes in the owner's contact information in a manner that brings attention to the changed information.
   3. Pay assessments properly levied by the Association against the owner or his lot, and will pay reoccurring scheduled assessments, such as regular assessments, without demand by the Association.
   4. Pay the applicable transfer-related fees and contributions at time of closing.
   5. Comply with the Governing Documents as amended and published from time to time.
   6. Pay for damage to the Property caused by the negligence or willful misconduct of the owner, a resident of the owner's lot, or the owner or resident's family, guests, employees, contractors, agents, or invitees.
   7. Be liable to the Association for violations of the Governing Documents by the owner, a resident of the owner's lot, or the owner or resident's family, guests, employees, agents, or invitees, and for costs incurred by the Association to obtain compliance.

b. **Owner's Responsibility for Insurance.** Each owner will obtain and maintain

b. property insurance on all insurable improvements on his lot, in an amount
b. sufficient to cover 80 percent of the replacement cost of any repair or
b. reconstruction in event of damage or destruction from any insured hazard.
b. Further, each owner will obtain and maintain general liability insurance on his lot.
b. Each owner and resident is solely responsible for insuring his personal property
b. in his dwelling and on the lot, including furnishings and vehicles. If circumstances
b. warrant, the board may establish additional minimum insurance requirements for owners if the insurance is deemed necessary or desirable by the board to reduce potential risks to the Association or other owners. Each owner will provide the Association with proof or a certificate of insurance on request by the Association from time to time. This Subsection may not be construed to create a duty for the Association to inquire about an owner's insurance coverage or to enforce this Subsection. In the event of a substantial damage or total loss to a residential property within the Association, the owner has 90 days to begin reconstruction or repair. Should the Owner fail to commence reconstruction or repair within 90 days, the Association may clean up the site so that it is presentable to the community and charge the Owner the cost of such.

Section 6.15. Contract Procurement Policy. The following guidelines apply for adoption of contracts for which the total cost is in excess of $50,000.00. This Section shall not apply during the developmental period.

a. **Competitive Bidding Required for Certain Association Contracts:** The Board of Directors will actively seek bids within the parameters of this Policy to manage Association expenditure and budget controls. Bidding will be in accordance with the guidelines set forth within this Policy. Adherence to this Policy provides a means to ensure the Board of Directors is fulfilling its responsibilities when spending Association funds.

b. **Competitive Bid Procedure:** A Competitive Bid Procedure will be used when:
   1. The projected total cost of the contract to the Association will be in excess of $50,000.00; or
   2. When the directors of the Association find there is need to engage in a Competitive Bid Procedure as set forth within this Contract Bidding Policy.

c. **Three Bidders Required**:
   1. If qualified bidders exist, at least three bids should be solicited for each project.
   2. The requirement for three bids may be waived if:
      i. Work is an Emergency or Act of God: The Competitive Bid Procedure as set forth within this Policy may be omitted if the Board of Directors determines a situation to be an emergency or an act of God;
      ii. Changing of vendors would disrupt existing warranties;
      iii. Other vendors are not willing to bid on the project; or
      iv. The Association is in the Developmental Period.

d. **Bid Requirements Submitted to Vendors**: The Board's request for bids to vendors or contractors will include the following information:
   1. Outline / Scope of Work (SOW) sought to be performed from the Vendor.
   2. A targeted date that the Association seeks to have the work completed.
   3. A request to the Vendor for an itemization of materials and labor necessary

to complete the project.

4. A request that the Vendor submit copies of current liability insurance coverage and/or bonding, State and Local licenses, permits, and Workers' Compensation Insurance (WCI) coverage.
5. A list of Vendor references if the Association has not had prior experience with the Vendor.
6. Any possible penalties for completion by the Vendor after the promised completion date.

e. **Bid Package Submittal Requirements from Vendor**: Each Vendor's response to the Association must contain:

1. An estimated total cost of the project with a breakdown of materials and labor costs.
2. A projected start and completion date.
3. Any possible deviations from the contract with respect to cost and/or completion date, e.g., weather delays, unforeseen obstacles such as ground conditions.
4. A copy of the Vendor's current liability insurance coverage and/or bonding, State and Local licenses, permits, and Workers' Compensation Insurance (WCI) coverage.
5. A list of Vendor references if the Association has not had prior experience with the Vendor.
6. A Copy of the Vendor's proposed contractual agreement with the Association.

f. **Direct Source, Sole Source, or Competitive Bid Exceptions will be considered when**:

1. Time does not allow for the collection and reviews of bids.
2. Emergency work makes time a critical factor.
3. The item or service does not permit soliciting competitive bids; including purchases needed to address major facility failures, damages due to disasters, or purchases necessary to address immediate safety and security issues.
4. Only one Vendor can meet the necessary Bid Requirements set forth by the Association.

g. **Bid Award / Selection**:

1. The Board of Directors shall have the discretion of accepting a bid higher than the low bid if justified based on Vendor qualifications.
2. The selection justification must be documented by the directors of the Association in the Board's meeting minutes.
3. The Board shall have the discretion of accepting that bid or going out for bids again if only one bid meets all specifications.
4. The Board shall have the discretion of tabling the project or soliciting bids again if no bids are received.
5. If only one bid meets all specifications, the Board shall have the discretion of accepting that bid or soliciting bids again.

h. **Conflicts of Interest:**

1. If a conflict of interest exists, the Board member or Committee member(s) with the conflict of interest must remove themselves from the bid process.
2. An Association may contract with a Board member or Committee member,

relative of a Board member or Committee member, or company owned by a Board member or Committee member only if:

i. The Board member or Committee member, relative of a Board member or Committee member, or company owned by a Board member or Committee member bids on the contract;
ii. There are at least 2 other competitive bidders aside from the Board member or Committee member, relative of a Board member or Committee member, or company owned by a Board member or Committee member;
iii. The conflicted Board member or Committee member is not given access to the bids;
iv. The conflicted Board member or Committee member does not participate in discussions regarding the contract;
v. The conflicted Board member or Committee member does not vote on the issue; and
vi. The conflict is disclosed to the Association.

i. **Best Judgment**: This Contract Bidding Policy is a financial tool and set of administrative guidelines to be used when considering Association expenditures. The Board shall at all times exercise its judgment and discretion to make the best decision possible on behalf of the Association and its membership.

ARTICLE VII
COVENANT FOR ASSESSMENTS

Section 7.1. General. The words and concepts used in the Sections of this Declaration that pertain to assessments, reserves, and the financial affairs of the Association ("**money-related**") are intended to have their ordinary meanings, and are not intended to be "terms of art" that have meanings specific to fields such as taxation, accounting, and finance. Any aspect of the money-related Sections of this Declaration that conflicts with an applicable regulation or ruling from the Internal Revenue Commission is unenforceable or must be construed in a way that does not conflict.

Section 7.2. Board Discretion. By acquiring an ownership interest in a lot, **each owner acknowledges that the board may** use its sole discretion in exercising the rights of the Association and of the board under this Article, such as decisions regarding reserve funds, and including without limitation the interpretation and implementation of every provision of this Article. If made in good faith, a board decision regarding any money-related matter is final. Because reasonable people may disagree about the intent, scope, and effect of certain provisions of this Article, the board is hereby authorized to adopt one or more resolutions or policies to interpret or implement any provision or right contained in this Article, and also has the right to amend or restate, from time to time, any such resolution or policy. To make informed money-related decisions that are mindful of potential tax consequences to the Association, the board may, from time to time, obtain the counsel of accounting, legal, banking, and investment professionals (as appropriate).

Section 7.3. Personal Obligation. **Each owner. by accepting an interest in or title to a lot. whether or not it is so expressed in the instrument of conveyance, covenants and agrees to pay assessments to the Association**. An owner is obligated to pay assessments levied by the board against the owner or his lot. An owner makes payment to the Association at its principal office or at any other place the board directs. Payments must be made in full regardless of whether an owner has a dispute with the

Association, another owner, or any other person or entity regarding any matter to which this Declaration pertains. No owner may exempt himself from his assessment liability by waiver of the use or enjoyment of the common area or by abandonment of his lot. An owner's obligation is not subject to offset by the owner, nor is it contingent on the Association's performance of the Association's duties. Payment of assessments is both a continuing affirmative covenant personal to the owner and a continuing covenant running with the lot.

Section 7.4. Use of Assessments. The Association will use its common funds (typically assessment income and reserves) **for the general Purposes of preserving and enhancing the Property, and for the common benefit of owners and residents**, including but not limited to maintenance of real and personal property, management and operation of the Association, any expense reasonably related to the purposes for which the Property was developed, and any expense permitted or required by the Governing Documents or by applicable laws and governmental regulations. If made in good faith, the board's decision with respect to the use of common funds is final. This Section does not attempt to Identify every possible use of common funds, nor to create a duty for the Association to provide the illustrated uses. The Association's common funds may be used for any expense which, in the opinion of the board, is **necessary or desirable for the operation, maintenance, preservation, enhancement, and beautification of the Property, or for the general benefit of owners and residents**, such as (by way of illustration but not limitation) the following:

a. Maintenance, repair, and replacement, as necessary, of the common property.
b. Maintenance, repair, and replacement, as necessary of the monuments located at the main entrance off of Highway 114.
c. Performance of a written contract or agreement, if any, between the Association and a neighboring property owner or owners association, a special district, or local government.
d. Utilities billed to the Association, if any.
e. Services billed to the Association and available to all lots, if any.
f. Taxes on property owned by the Association (if any), franchise taxes, and the Association's income taxes.
g. Management, legal, accounting, auditing, and professional fees for services to the Association.
h. Costs of operating the Association, such as website, internet, telephone, postage, office supplies, printing, meeting expenses.
i. Activities that promote the Property and the Association to the community at large, as well as activities that contribute to communications between the Association and its members and among the members, such as social and recreational functions, websites, and social media services and subscriptions.
j. Educational opportunities of benefit to the Association.
k. Premiums and deductibles on insurance policies and bonds deemed by the board to be necessary or desirable for the benefit of the Association, including fidelity bonds and directors and officers liability insurance.
l. Contributions to reserve funds, savings accounts, and other permitted accounts of the Association.
m. Costs of performing the Association's required and discretionary functions under this Declaration, the other Governing Documents, and applicable law, and any expense which the Association is required to pay by law or the Governing Documents.
n. Costs of enforcing the Governing Documents.

o. Acquisition and construction of common property, consistent with applicable sections of the Internal Revenue Code, and subject to the Betterments Section below.

p. Maintenance of the Right of Ways located off of Highway 114 and Lola Creek Drive, from the intersection of Highway 114 and Lola Creek Drive, north to the back of the nearest commercial lots. The locations of the Right of Ways the Association is obligated to maintain may be found at Appendix F. Those locations are highlighted in green.

Section 7.5. Annual Budget. The board will prepare and approve an estimated annual budget for each fiscal year. The budget will take into account the estimated income and expenses for the year, estimated contributions to reserve funds, and a projection for uncollected receivables. Estimated expenses for the year typically include common expenses related to the reoccurring, periodic, and anticipated responsibilities of the Association. The board will make the budget or its summary available to an owner of each lot, although failure to receive a budget or summary does not affect an owner's liability for assessments. The board will make the detailed budget available to an owner upon request.

Section 7.6. Surplus & Shortfall. The annual budget being an estimate of income and expenses, almost every year will result in either a shortage or surplus of income over expenses. The purpose of this Section is to clarify that the board is authorized to deal with budget surpluses and shortfalls. Words used in this Section are not intended to have meanings specific to fields such as taxation, accounting, and insurance.

a. **Shortfall.** If during the course of a year the board determines that the Association's actual income may be insufficient to cover the actual amount of budgeted common expenses for the remainder of the year, the board may increase regular assessments for the remainder of the fiscal year in an amount that covers the estimated deficiency. The Association is not prohibited by this Declaration from transferring money from its reserve accounts to cover an operating shortfall or to respond to an emergency.

b. **Surplus.** Being a nonprofit entity does not prohibit the Association from acquiring a surplus of income over expenses. If during the course of a year the board determines that the Association's income is expected to exceed the common expenses that are budgeted for the remainder of the year, the board may determine one or more uses for the excess income by any means that benefits the Property, owners, and residents.

Section 7.7. Betterments. The purpose of this Section is to distinguish between improvements to the Property that may be authorized unilaterally by the board in its sole discretion, and improvements that must have the prior approval of owners in addition to the board. Words used in this Section are not intended to have meanings specific to fields such as taxation, accounting, and insurance.

a. **Maintenance Improvements.** The board has sole authority and discretion for "Maintenance Improvements," being improvements of real and personal property that are within the scope of maintenance, repair, and replacement, regardless of the cost of the improvement. As used in this Section, "maintenance, repair, and replacement" of real and personal common property means substitutions, upgrades, additions, improvements, enhancements, and even removal which are required or recommended (1) to reduce future maintenance duties or costs, (2) to reduce liability, (3) to respond to an emergency or to prevent additional damage, (4) to take advantage of advancements in technology, systems, or materials, (5) to preserve the condition of common property, (6) to improve the appearance of common property, (7) to comply with laws and ordinances, or (8) to conform to changes in community standards.

b. **Betterment Improvements.** A **Betterment Improvement** is an improvement of real or personal property that is not a Maintenance Improvement. Subject to the exception below for Nominal Betterments, common funds from any source (such as assessment, budget surplus, reserves, or bank loan) may not be spent on a Betterment Improvement without the prior approval of both the board and owners representing at least two-thirds of the lots represented in person or by proxy at a meeting of the Association (at which a quorum is attained) called for the purpose of approving the Betterment Improvement. If the requisite approvals were obtained for a proposed Betterment Improvement in connection with establishing a discretionary reserve fund or special assessment dedicated to the Betterment Improvement, the prior approval also pertains to expending the

discretionary reserve fund or special assessment on the dedicated Betterment Improvement.

c. **Nominal Betterments**. The board has sole authority and discretion for **Nominal Betterments**, being Betterment Improvements of real and personal property that, in the sole discretion of the board, meet all of the three below-listed criteria. A determination of "significant increase" by the board is a proper exercise of its discretionary authority and is presumed to be reasonable. The board may develop guidelines for such determinations. Adding a grove of trees to an open space is an example of a Nominal Betterment. The criteria for a Nominal Betterment are:
   1. The cost of the Betterment Improvement is less than five percent of the Association's annual operating budget.
   2. The Betterment Improvement is not expected to significantly increase the Association's liability.
   3. The Betterment Improvement is not expected to significantly increase the Association's responsibility and financial obligation for operation, insurance, maintenance, repairs, or replacement.

Section 7.8. Owners' Control for Assessment Increases. This Section of the Declaration may not be amended without the approval of owners of at least two-thirds of the lots. In addition to other rights granted to owners by this Declaration, owners have the following powers and controls over the Association's budget:

a. **Veto Increased Dues.** At least 30 days prior to the effective date of an increase in regular assessments, the board will notify an owner of each lot of the amount of, the budgetary basis for, and the effective date of the increase. The increase will automatically become effective unless owners of at least a majority of the lots disapprove the increase by petition or at a meeting of the Association. In that event, the last-approved budget will continue in effect until a revised budget is approved.

b. **Veto Special Assessment.** At least 30 days prior to the effective date of a special assessment, the board will notify an owner of each lot of the amount of, the budgetary basis for, and the effective date of the special assessment. The special assessment will automatically become effective unless owners of at least majority of the lots disapprove the special assessment by petition or at a meeting of the Association.

Section 7.9. Types of Assessments. There are 5 types of assessments: Regular, Dedicated, Special, Individual, and Deficiency.

a. **Regular Assessments**. Regular assessments are based on the annual budget. Each lot is liable for its equal share of the annual budget. If the board does not approve an annual budget or fails to determine new regular assessments for any year, or delays in doing so, owners will continue to pay the regular assessment as last determined

b. **Dedicated Assessments.** Dedicated assessments are permitted but not required if the board, in its sole discretion, determines that a recurring line-item in the Association's annual budget warrants a separate assessment dedicated for that purpose. Any common expense that is properly funded with regular assessments, and which must be included in the Association's annual budget, is a candidate for

separate levy as a dedicated assessment. The payment period and due date for a dedicated assessment may differ from those of the regular assessment. If the Association levies a dedicated assessment, the Association must disclose the amount and purpose of the dedicated assessment in resale certificates prepared by the Association. This subsection may not be construed to require a separate dedicated assessment.

c. **Special Assessments.** The board may levy one or more special assessments against all lots for the purpose of defraying, in whole or in part, common expenses not anticipated by the annual budget or reserve funds. Special assessments do not require the approval of the owners, unless this Declaration so stipulates.

d. **Individual Assessments.** In addition to regular and special assessments, the board may levy an individual assessment against a lot and its owner. Individual assessments may include, but are not limited to: interest, late charges, and collection costs on delinquent assessments; reimbursement for costs incurred in bringing an owner or his lot into compliance with the Governing Documents; fines for violations of the Governing Documents; insurance deductibles; transfer-related fees and resale certificate fees; fees for estoppel letters and project documents; reimbursement for damage or waste caused by willful or negligent acts; common expenses that benefit fewer than all of the lots, which may be assessed according to benefit received; fees or charges levied against the Association on a per-lot basis; and "pass through" expenses for services to lots provided through the Association and which are equitably paid by each lot according to benefit received.

e. **Deficiency Assessments.** The board may levy a deficiency assessment against all lots for the purpose of defraying, in whole or in part, the cost of repair or restoration If insurance proceeds or condemnation awards prove insufficient.

Section 7.10. Basis & Rate of Assessments. The share of liability for common expenses allocated to each lot is uniform for all lots, regardless of a lot's location or the value and size of the lot or dwelling, subject to the exemption for Declarant provided below and in Appendix C. Unplatted portions of the Property, if any, are not subject to assessment.

Section 7.11. Due Date. The board may levy regular assessments on any periodic basis - annually, semi-annually, quarterly, or monthly. Regular assessments are due on the first day of the period for which levied. Special and individual assessments are due on the date stated in the notice of assessment or, if no date is stated, within 10 days after notice of the assessment is given. Assessments are delinquent if not received by the Association on or before the due date.

Section 7.12. Declarant Exemption. Declarant's obligation for common expenses and exemption from assessments is described in Appendix C attached hereto. Unless Appendix C creates an affirmative assessment obligation for Declarant, every vacant lot and every Improved lot owned by Declarant, by an affiliate of Declarant, or by an owner who is under contract to sell the lot to Declarant, is exempt from assessment by the Association.

Section 7.13. Association's Right to Borrow Money. The Association has the right to borrow money, subject to (1) the ability of the Association to repay the borrowed funds from assessments, (2) approval by the board, and (3) the approval or consent of either (a) owners of at least a majority of the lots, or (b) if a meeting of the Association is called for the purpose of approving the loan, and if a quorum

is attained, then owners of at least two-thirds of the lots which are represented (in person or by proxy) at the meeting may approve the loan, even though they may comprise less than the number of owners required for the quorum. To assist its ability to borrow, the Association is granted the right to encumber, mortgage, pledge, or deed in trust any of its real or personal property, and the right to assign its right to future income, as security for money borrowed or debts incurred, provided that the rights of the lender in the pledged property are subordinate and inferior to the rights of the owners hereunder. This Section does not apply to loans between accounts of the Association, or between the Association and Declarant.

Section 7.14. Limitations of Interest. The Association, and its officers, directors, managers, and attorneys, intend to conform strictly to the applicable usury laws of the State of Texas. Notwithstanding anything to the contrary in the Governing Documents or any other document or agreement executed or made in connection with the Association's collection of assessments, the Association will not in any event be entitled to receive or collect, as interest, a sum greater than the maximum amount permitted by applicable law. If from any circumstances whatsoever, the Association ever receives, collects, or applies as interest a sum in excess of the maximum rate permitted by law, the excess amount will be applied to the reduction of unpaid special and regular assessments, or reimbursed to the owner if those assessments are paid in full.

Section 7.15. Effect of Nonpayment of Assessments. An assessment is delinquent if the Association does not receive payment in full by the assessment's due date. The Association is responsible for taking action to collect delinquent assessments. The Association's exercise of its remedies is subject to applicable laws, such as Chapter 209 of the Texas Property Code, and pertinent provisions of the Bylaws. From time to time, the Association may delegate some or all of the collection procedures and remedies, as the board in its sole discretion deems appropriate, to the Association's manager, an attorney, or a debt collector. Neither the board nor the Association, however, is liable to an owner or other person for its failure or inability to collect or attempt to collect an assessment. The following remedies are in addition to and not in substitution for all other rights and remedies which the Association has.

a. **Interest.** Delinquent assessments are subject to interest from the due date until paid, at a rate to be determined by the board from time to time, not to exceed 10 percent per annum. If the board fails to establish a rate, the rate is 10 percent per annum. On a delinquent account, the Association may charge interest or late fees, but not both.

b. **Late Fees.** Delinquent assessments are subject to reasonable late fees, at a rate to be determined by the board from time to time. On any delinquent account, the Association may charge interest or late fees, but not both.

c. **Costs of Collection.** The owner of a lot against which assessments are delinquent is liable to the Association for reimbursement of reasonable costs incurred by the Association to collect the delinquent assessments, including attorneys fees and processing fees charged by the manager.

d. **Acceleration.** If an owner defaults in paying an assessment that is payable in Installments, the Association may accelerate the remaining installments on 10 days' written notice to the defaulting owner. The entire unpaid balance of the assessment becomes due on the date stated in the notice.

e. **Suspension of Use**. If an owner's account has been delinquent for at least 30 days, the Association may suspend the right of the owner and residents of the owner's lot to use common areas and common services during the period of delinquency. Suspension does not constitute a waiver or discharge of the owner's obligation to pay assessments.

f. **Money Judgment.** The Association may file suit seeking a money judgment against an owner delinquent in the payment of assessments, without foreclosing or waiving the Association's lien for assessments.

g. **Notice to Mortgagee.** The Association may notify and communicate with the holder of any lien against a lot regarding the owner's default in payment of assessments.

h. **Foreclosure of Assessment Lien**. As provided by this Declaration, the Association may foreclose its lien against the lot by judicial or nonjudicial means.

i. **Application of Payments.** The Association will accept partial payments, but may adopt a policy for returning partial payments with words of limitation to which the Association has not agreed. Payments received for the lot's account will be applied according to the requirements of applicable law.

j. **Payment Plan.** An owner shall have the opportunity to submit a payment plan request to the board of directors. Such payment plan request must be made in writing and may be transmitted via email to the Association's Managing Agent or to the Association's Attorney. All payment plans submitted must be 12 months or less in length, beginning at the date of the initial request for the payment plan, and pay the entire balance owed by the owner submitting such a plan, including any additional assessments, administrative fees, and interest that accrue during the pendency of the plan.

1. Should the payment plan request meet the requirements as set forth above, the owner shall be notified that the board has agreed to his payment plan. A Payment Plan Agreement shall be submitted to the owner in writing.
2. Administrative fees and interest shall be charged against the owner's account during the pendency of the payment plan.
3. Payment Plan payments shall be submitted to the Association, its Managing Agent, or the Association's attorney and shall be due upon the first of the month, unless otherwise specified within the owner's payment plan.
4. Payments under a payment plan must be received within three business days of their due date as specified in the Payment Plan Agreement or said agreement shall be considered in default. Should an owner default under said payment plan, subsequent payments by the owner shall no longer be applied according Texas Property Code Section 209.0063 but shall be applied in the following order: 1) Attorney's fees; 2) Interest; 3) Administrative Fees; 4) Delinquent Assessments; 5) Current Assessments; 5) Any other amount owed the Association; 6) Fines. An owner defaulting under a payment plan shall be notified of such default via a Payment Plan Default Letter and collection activity shall immediately resume upon their account.
5. The Association shall not be required to enter into a payment plan with an owner if that owner has entered and defaulted on a payment plan within the previous two years. The Association shall not be required to enter into a payment plan with an owner if that owner is currently in foreclosure.

ARTICLE VIII
RESERVE FUNDS

Section 8.1. General. **The application of this Article is discretionary with the board**. Generally, the funds of the Association are in either operating funds or reserve funds. From time to time,

and as needed, the Association may establish any number of reserve funds for different purposes, provided each purpose benefits the Property and its owners and residents. Duties imposed on the Association or the board by this Section are voluntary during the Declarant Control Period, and do not become obligatory until the first fiscal year after the end of the Declarant Control Period.

a. **Authority.** The Association's reserve funds may not be placed in accounts other than no-risk fully-insured accounts, except pursuant to - and in close adherence with - an investment policy adopted by the board. To be effective, an investment policy must be approved and signed by all the directors, or by a majority of the directors and all three members of an advisory committee of disinterested owners appointed by the board for the purpose of considering and approving the investment policy. Although not required, review of the investment policy at least once every three years by the board and the above-referenced advisory committee is recommended.

b. **Sources.** Typically, reserve accounts are funded by monies paid by owners other than Declarant, who has no duty to contribute to reserves. Owners' contributions may be in the form of initial contributions at time of purchase, special assessments, budgetary surpluses, or set-asides from regular assessments.

c. **Non-Reimbursable.** By acquiring an ownership interest in a lot, each owner acknowledges that the Association's reserve accounts are not subject to partition and are not a source of reimbursement to the owner for monies contributed by the owner during the period of lot ownership. This may not be construed to prevent the buyer and seller of a lot from negotiating reserve contributions between themselves.

Section 8.2. Repair & Replacement Reserves. Within one year after the end of the Declarant Control Period, the Association may establish, maintain, and accumulate Repair & Replacement Reserves ("**R&R Reserves**") for repair and replacement of some (if not all) Improvements in the common area and components of common property. Within one year after the end of the Declarant Control Period, and periodically thereafter, the board elected by the owners may adopt a replacement reserve schedule as the basis for the Association's R&R Reserves.

Section 8.3. Operations Reserves. The Association may establish, maintain, and accumulate operations reserves, at a level determined by the board, to cover expenses such as the cost of operational or maintenance emergencies or contingencies. Also, operations reserves may be used by the Association to cover fluctuations and shortages in operating income.

Section 8.4. Discretionary Reserves. The board may establish, maintain, and accumulate as many additional types of reserve funds as it desires, such as "Special Future Projects." As a general rule, the Association should endeavor to adequately fund the R&R Reserve fund before funding one or more discretionary reserve accounts.

Section 8.5. Declarant Exemption. Declarant's exemption from reserve contributions is described in Appendix C attached hereto. By acquiring an ownership interest in a lot, each owner acknowledges that Declarant is not obligated to contribute to the Association's reserve funds, and that during the Declarant Control Period the Association is not obligated to fund reserves, even if shown on a build-out budget as a category of future expense.

ARTICLE IX
ASSESSMENT LIEN

Section 9.1. Creation & Perfection of Lien. The recording of this Declaration creates the Association's continuing assessment lien on every lot in the Property to secure the payment of assessments levied or to be levied by the Association. This publicly recorded Declaration constitutes record notice and perfection of the lien. No other recordation of a lien or notice of lien is required. Each assessment is a charge on the lot and is secured by a continuing lien on the lot. Each owner, and each prospective owner, is placed on notice that his title is subject to the Association's continuing lien, which may secure unpaid assessments attributable to a period prior to the date he purchased his lot.

Yes, the HOA can foreclose!
If you fail to pay assessments to the Association, you may lose title to your home if the Association forecloses its assessment lien against your lot.

Section 9.2. Lien Superior to Homestead. Because this Declaration is recorded before the instrument by which an owner takes title to a lot, the assessment lien hereby created is superior to any homestead right acquired in the future by a lot owner. Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, acknowledges that the Association's assessment lien is superior to the owner's claim of homestead, if applicable.

Section 9.3. Other Superiorities. In addition to a claim of homestead, the assessment lien created by this Declaration is also superior to all other liens and encumbrances on a lot, except only for (1) real property taxes and assessments levied by governmental and quasi-governmental authorities, (2) a deed of trust or vendor's lien recorded against land before the land became subject to this Declaration, (3) a recorded deed of trust lien securing a loan for construction of the original improvements on a lot, and (4) a purchase money vendor's lien or purchase money deed of trust lien recorded before the date on which the delinquent assessment became due. The Association may voluntarily subordinate its assessment lien to an otherwise-inferior lien, from time to time. However, the lien created by this Declaration cannot and may not be released as to a lot without withdrawing the lot from the effect of this Declaration. Any instrument that purports to "release" the Association's assessment lien, even if executed by the Association, will be construed, depending on the circumstances, as either a subordination of the assessment lien as to future assessments on the lot, or as a waiver of Association's superior claim against the lot for delinquent assessments.

Section 9.4. Effect of Mortgagee's Foreclosure. Foreclosure of a superior lien extinguishes the Association's claim against the lot for unpaid assessments that became due before the sale, but does not extinguish the Association's claim against the former owner, and does not extinguish the Association's lien for assessments that become due after the sale. The purchaser at the foreclosure sale of a superior lien is liable for assessments coming due from and after the date of the sale, and for the owner's pro rata share of the pre-foreclosure deficiency as an Association expense.

Section 9.5. Notice and Release of Notice. Although this Declaration constitutes perfection of its lien, the Association, at its option, may cause a notice of the lien to be recorded in the Real Property Records of Wise County, Texas. If the debt is cured after a notice has been recorded, the Association will publicly record a release of the notice within 60 days after cure, or within 60 days

after receiving the owner's written request. Although the owner is liable to the Association for reimbursement of release expenses incurred by the Association, the Association may not require prepayment as a condition of the release.

Section 9.6. Power of Sale. By accepting an interest in or title to a lot, each owner grants to the Association a private power of nonjudicial sale in connection with the Association's assessment lien. The board may appoint, from time to time, any person, including an officer, agent, trustee, substitute trustee, or attorney, to exercise the Association's lien rights on behalf of the Association, including the power of sale. The appointment must be in writing and may be in the form of a resolution recorded in the minutes of a board meeting.

Section 9.7. Foreclosure of Lien. Foreclosure of the Association's assessment lien - and all prerequisite procedures - must comply with at least the minimum requirements of applicable law for foreclosures, in general, and for foreclosures by property owners associations, in particular. To the extent permitted by law, the assessment lien may be foreclosed by judicial or nonjudicial methods. A nonjudicial foreclosure requires a court order pursuant to the expedited foreclosure process required by Chapter 209 of the Texas Property Code, and must be conducted in accordance with the provisions applicable to the exercise of powers of sale as set forth in Section 51.002 of the Texas Property Code, or in any manner permitted by law. In any foreclosure, the owner is required to pay the Association's costs and expenses for the proceedings, including reasonable attorneys' fees, subject to applicable provisions of the Bylaws and applicable law, such as Chapter 209 of the Texas Property Code. The attorney's fees, costs, and expenses of such shall be an assessment lien upon the lot and subject to foreclosure. The Association has the power to bid on the lot at foreclosure sale and to acquire, hold, lease, mortgage, and convey same.

ARTICLE X
ENFORCING THE DOCUMENTS

Section 10.1. Right to Enforce. The Association and each owner has the right to enforce all restrictions, conditions, covenants, liens, and charges now or hereafter imposed on the Property, on the owners, or on the Association by the Governing Documents or by applicable law. Failure by the Association or by any owner to enforce a provision of the Governing Documents or applicable public law is not a waiver of the right to do so thereafter. If the Association does waive the right to enforce a provision, that waiver does not impair the Association's right to enforce any other part of the Governing Documents at any future time. No officer, director, or member of the Association is liable to any owner for the failure to enforce any of the Governing Documents at any time.

Section 10.2. Board Discretion. The board may use its sole discretion in determining whether to pursue a violation of the Governing Documents, provided the board does not act in an arbitrary or capricious manner. In evaluating a particular violation, the board may determine that under the particular circumstances (1) the Association's position is not sufficiently strong to justify taking any or further action; (2) the provision being enforced is or may be construed as inconsistent with applicable law; (3) although a technical violation may exist, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or (4) that enforcement is not in the Association's best interests, based on hardship, expense, or other reasonable criteria.

Section 10.3. Consistency by Circumstance. The board may vary its enforcement by circumstance, provided (1) the board establishes a rational and reasonable basis for circumstantial enforcement, and (2) the board diligently tries to be consistent in dealing with similar circumstances. To

illustrate, the Association may decide that circumstances warrant different procedures for collecting delinquent assessments from owner occupants and investor owners, or from owners who are selling their lots, or are temporarily unemployed, or are in bankruptcy, or are deceased. Similarly, there may be a basis for enforcing a construction specification or use restriction against lots that are highly visible because of their prominent location, versus lots that have a less visible or less prominent location.

Section 10.4. Technical Violation. If an owner who takes or makes an action, use, change, or addition that requires prior approval, without having applied for or obtained such prior approval, the action, use, change, or addition is deemed to have been approved if it (1) qualifies for approval, (2) is in substantial compliance with applicable regulations, and (3) would have been approved, in the reasonable exercise of the Approver's discretionary powers, if the application had been submitted timely. An owner who fails to obtain prior written approval may apply belatedly for written approval, in which case the board, ARC, Architectural Reviewer, or Association, as applicable, may not disapprove the application that otherwise complies with the foregoing criteria for deemed approval. A written approval issued "retroactively" - after the action, use, change, or addition is made - may not be construed as a waiver of the duty of owners to obtain prior written approval when required by a Governing Document, nor as an abdication of authority over actions, uses, changes, and additions to the Property that are regulated by the Governing Documents.

Section 10.5. Costs of Enforcement. The Association may use common funds to exercise its rights and remedies for enforcing the Governing Documents, including funds contributed by the owner against whom enforcement is sought. Costs incurred by the Association for curing or abating a violation are at the expense of the owner or other person responsible for the violation. If legal assistance is obtained to enforce a provision of a Governing Document, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of a Governing Document or the restraint of a violation of a Governing Document, the prevailing party is entitled to recover from the nonprevailing party all reasonable and necessary costs incurred by it in such action, including reasonable attorneys' fees.

Section 10.6. Notice and Hearing. Before the Association may exercise certain remedies for a violation of the Governing Documents or damage to the Property, the Association must give an owner written notice and an opportunity for a hearing, according to the requirements and procedures in the Bylaws and in applicable law, such as Chapter 209.006 of the Texas Property Code. Notices are also required before an owner is liable to the Association for certain charges, including reimbursement of attorney's fees incurred by the Association.

Section 10.7. Remedies. The remedies provided in this Article for breach of the Governing Documents are cumulative and not exclusive. The remedies in addition to other rights and remedies provided by the Governing Documents and by applicable law, the Association has the following right to enforce the Governing Documents, subject to applicable notice and hearing requirements (if any):

a. **Nuisance.** The result of every act or omission that violates any provision of a Governing Document is a nuisance, and any remedy allowed by law against a nuisance, either public or private, is applicable against the violation.

b. **Fine.** The Association may levy reasonable charges, as an individual assessment, against an owner and his lot if the owner or resident, or the owner or resident's family, guests, employees, agents, or contractors violate a provision of the Governing Documents. Fines may be levied for each act of violation or for each day a violation continues, and does not constitute a waiver or discharge of the

b. owner's obligations under the Governing Documents. As a remedy, fines may be
b. used to obtain compliance with an ongoing violation or a violation that is likely to
b. be repeated. The board of directors may establish a fining policy in accordance with this Section which sets for a system of fines. Should a fining policy not be established, the board of directors maintains the discretion to assign a fine amount for each violation.

c. **Suspension.** The Association may suspend the right of owners and residents to use common areas for any period during which the owner or resident, or the owner or resident's family, guests, employees, agents, or contractors violate the Governing Documents. A suspension does not constitute a waiver or discharge of the owner's obligations under the Governing Documents.

d. **Self-Help.** The Association has the right to enter any part of the Property, including lots, to abate or remove, using force as may reasonably be necessary, any Improvement, thing, animal, person, vehicle, or condition that violates a Governing Document. In exercising this right, the Association is not trespassing and is not liable for damages related to the abatement. The Association may levy its costs of abatement against the lot and owner as an individual assessment. Costs of abatement may include the costs of security, locksmiths, and vendor costs associated with the curing of the violation. The Association will make reasonable efforts to give the violating owner prior notice of its intent to exercise self-help. The notice may be given in any manner likely to be received by the owner. Prior notice is not required (1) in the case of emergencies, (2) to remove violative signs, (3) to remove violative debris, or (4) to remove any other violative item or to abate any other violative condition that is easily removed or abated and that is considered a nuisance, dangerous, health hazard, or an eyesore to the neighborhood.

e. **Suit.** Failure to comply with the Governing Documents will be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Prior to commencing any legal proceeding, the Association will give the defaulting party reasonable notice and an opportunity to cure the violation.

Section 10.8. Restricted Use. Use of the Common Properties shall be limited to Members, their families, long term tenants, and guests. No person or entity shall use any portion of the Common Properties to: (i) solicit, promote, or conduct business, religious, political, or propaganda matters; or (ii) distribute hand bills, newsletters, flyers, circulars, or other printed materials without the prior written consent of the Association (which consent may be withheld in its sole and absolute discretion).

Section 10.9. Residential Purposes & Leasing. The use of a Lot is limited exclusively to residential purposes or any other use permitted by this Declaration. This residential restriction does not, however, prohibit a Resident from using a dwelling for personal business or professional pursuits provided that: (1) the uses are incidental to the use of the Dwelling as a Residence; (2) the uses conform to applicable governmental ordinances; (3) there is no external evidence of the uses; (4) the uses do not entail visits to the lot by employees or the public in quantities that materially increase the number of vehicles parked on the street; (5) the uses do not interfere with residents use and enjoyment of neighboring Lots; and (6) the use is in compliance with other provisions of this declaration.

No property may be leased for less than thirty days in length. No property may be leased to

individual who appears on a State or Federal sex offender registry.

Section 10.10. Minimum Lot Area. No Lot shall be resubdivided; provided, however, that Declarant shall have and reserves the right, at any time, or from time to time, upon the joinder and consent of the appropriate county and/or municipal authorities, and with the joinder and consent of the directly affected Owners, to file a replat of the Plat to effect a resubdivision or reconfiguration of any Lots then owned by Declarant, so long as, such replat results in each resubdivided Lot containing not less than the minimum lot size prescribed by the zoning ordinances of the town of Boyd, Texas or Wise County. The privilege to replat Lots owned by the Declarant reserved in this Section shall be exercisable only by Declarant.

Each dwelling constructed on any Lot in the subdivision shall contain a minimum of two thousand seven hundred (2,700) square feet of air-conditioned floor space.

Section 10.11. Building Setback Requirements. No residence may be built closer than 65 feet from the front of the lot line. All front, side and rear setbacks must be approved by the Architectural Review committee, and must meet the requirements of the Wise County and the requirements of the Plat. The location of the main residence on each Lot and the facing of the main elevation with respect to the street shall be subject to the written approval of the Architectural Review committee. No building or structure of any type shall be erected on any Lot nearer to the property lines indicated by the minimum building setback line on the Plat.

Section 10.12. Height. No building or structure on any Lot shall contain more than two (2) stories or exceed, in height, the maximum height allowed by the Wise County, such height to be measured and determined in accordance with the method approved by Wise County.

Section 10.13. Driveways. Each Lot must be accessible to the adjoining street by a concrete driveway suitable for such purposes and approved in writing as to design, materials and location by the Architectural Review committee before the residential structure located on such Lot may be occupied or used. Stamped/stained concrete and salt finish are permissible flatwork finishes for driveways. Culvert pipes underneath driveways shall be faced with concrete and meet Wise County driveway permit standards. Only one driveway may exist per Lot.

Section 10.14. Access. No driveways or roadways may be constructed on any Lot to provide access to any adjoining Lot except as expressly provided on the Plat, or otherwise approved in writing by the Architectural Review Committee.

Section 10.15. Erosion Control. During the Construction of improvements on the Lots and prior to the landscaping of such Lots, Lot Owner will take responsibility to prevent excessive erosion of Lots, causing silt to be deposited in streets and in the storm drains. Builders shall maintain silt fences until landscaping has been complete. Neither the Declarant nor its successors or assigns shall be liable for any loss of, use of, or damage done to, any shrubbery, trees, flowers, improvements, fences, walks, sidewalks, driveways, or buildings of any type or the contents thereof on any Lot caused by any water levels, rising waters, or drainage waters. After the residence to be constructed on a Lot has been substantially completed, the Lot will be graded so that surface water will generally flow to streets, alleys, drainage easements, or Common Properties, and in conformity with the general drainage plans for the subdivision.

Section 10.16. Utilities. Each residence situated on a Lot shall be connected to the water lines as

soon as practicable after same are available at the Lot line. However, portable toilets will be required during building construction. The installation and use of any propane, butane, LP Gas or other gas tank, bottle or cylinder of any type (except portable gas grills), shall require the prior written approval of the Architectural Review committee, and, if so approved, shall be installed underground. Any control boxes, valves, connections, utility risers or refilling or refueling devices shall be completely landscaped with shrubbery so as to obscure their visibility from the streets within or adjoining the Properties or from any other Lot.

Section 10.17. Landscaping. All areas visible from the street fronting a Lot shall be attractively landscaped. Dead trees must be removed in a prompt manner. Trees may not be placed near the property line such that they would cause a hazard to an adjacent property owner, or in the county Right of Way ("ROW"). Any and all plans for the landscaping of front yards and of side yards, including alterations, changes or additions thereto, shall be subject to the written approval of the Architectural Review committee. Weather permitting, the front and side yards of each Lot shall be fully landscaped within thirty (30) days after the date the residence thereon is ninety-five percent (95%) complete, which shall include a minimum of two (2) container grown or machine transplanted trees with a minimum caliper of three (3) inches in the front yard of each residence, grass sod in the front (extending to the road pavement), side, and back (extending to 30 feet behind the rear corners of the house) of the Lot. Front, back, and side yards bordering a street shall install sod extending to the road pavement for the full length of the lot. The front, back, and side yards of each Lot shall contain an underground water sprinkler system for the purpose of maintaining the landscaping and grass sod. Each Lot Owner shall be responsible for maintaining his own lawn and landscaping in a healthy and attractive condition. Drought Resistant Xeriscaping in accordance with Section 202.007 of the Texas Property Code is allowed.

Section 10.18. Fences. No fence, wall or hedge shall be erected, placed or altered on any Lot without the prior written approval of the Architectural Review committee. The design of and materials used in the construction of fences shall be subject to the prior written approval of the Architectural Review committee. No fence may exceed five feet (60 inches) in height. No fence, wall or hedge shall be erected, placed or altered on any Lot nearer to any street than the minimum building setback line indicated on the Plat. Fencing will be allowed to extend from the rear perimeter of a dwelling to the side property lines and towards the rear of the property All service and sanitation facilities, clothes lines, wood piles, tool sheds and air conditioning equipment must be enclosed within fences and/or landscaping so as not to be visible from the adjoining Lots and residential streets. Upon submission of a written request, the Architectural Review committee may, from time to time, at its sole discretion, permit Owners to construct fences or walls which are in variance with the provisions of this paragraph where, in the opinion of the Architectural Review committee, the fence or wall is an integral part of the home.

Notwithstanding anything to the contrary contained in this Section, no fence shall be permitted and no fence may be constructed along the boundaries of any Lot where a screening wall has previously been constructed.

Wood fencing shall not be allowed, with the exception of the wood fencing that was originally constructed by the Declarant. These wood fences must be maintained, repaired, and replaced by the Owners of the Lots on which the wood fences are located. The location of these wood fences is set forth in red in Appendix F.

The following types of fencing are allowed within the Association, subject to the prior-written approval of the Architectural Review Committee:

a. Pipe fencing with no-climb wire;

b. Ornamentor or wrought iron fencing;
c. Swimming pool enclosure fencing as permitted under Section 202.022 of the Texas Property Code;
d. Masonry columns with iron fencing; and
e. Any other fencing approved by the Architectural Review Committee.

The following types of fencing are expressly not allowed:

a. Chain link fencing;
b. Wood fencing of any kind, with the exception of the wood fencing set forth in this Section and under Appendix F;
c. Privacy fencing (wood or vinyl);
d. Barbed wire fencing;
e. Electric or hot wire fencing;
f. Hog wire fencing; and
g. Solid panel fencing of any kind.

Section 10.19. Trash Receptacles and Collection. Each Lot Owner shall make or cause to be made appropriate arrangements with the trash service for collection and removal of garbage and trash on a regular basis. If the Owner fails to make such provisions, the Association may do so and assess the costs thereof to the Owner. All Lots shall at all times be kept in a well maintained, healthful, sanitary and attractive condition. No Lot shall be used or maintained as a dumping ground for garbage, rubbish, debris, trash, junk or other waste matter. All trash, garbage, or waste matter shall be kept in adequate containers which shall be constructed of metal, plastic or masonry materials, with tightly-fitting lids, which shall be maintained in a clean and sanitary condition. An Owner may place trash on the street curb abutting his Lot only on those days designated as trash collection days; provided, however, such trash must be kept neatly contained in a sanitary, tightly-sealed metal, plastic or other container. No Lot shall be used for open storage of any materials whatsoever, except that new building materials used in the construction of improvements erected on any Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without unreasonable delay, unti1 completion of the improvements, after which the materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. No garbage, trash, debris, or other waste matter of any kind shall be burned on any Lot. Trash Cans Shall not be visabale from the street stored.

Section 10.20. Exterior Lighting. No exterior light, including landscape lighting, shall be installed or maintained on any Lot without the prior written approval of the Architectural Review Committee. Further, and notwithstanding such prior written approval, upon being given notice by the Architectural Review Committee that any exterior light is objectionable, the Owner of the Lot on which same is located will immediately remove said light or shield the same in such a way that it is no longer objectionable. No lights may illuminate a neighboring Lot without that neighboring Lot's express written permission.

An owner may install holiday lights on their home without first seeking the approval of the Architectural Review Committee. Holiday lights may be installed no earlier than November 15th and must be removed by January 10th.

Section 10.21. Antenna & Satellite Dishes. The erection, construction, placement or installation of any television, radio or other electronic tower, serial, antenna, satellite dish or device of any type for the reception or transmission of radio or television broadcast signals or other means of communication upon a Lot or upon any improvement thereon is prohibited, except that this prohibition shall not apply to

those antennae specifically covered by 47 C.F.R. Part 1, Subpart S, Section 1.4000 (or any successor provision) promulgated under the Telecommunications Act of 1996, as amended from time to time. The ARC shall be empowered to adopt Rules governing the types of antennae that are permissible hereunder and establishing reasonable, non-discriminatory restrictions relating to safety, location and maintenance of antennae. All dishes must be installed in compliance with all state and local laws and regulations, including zoning, land-use, and building regulations. All dishes must be maintained and kept in good condition and shall not be visible from streets. Unsightly, rusted, and damaged satellite dishes must be replaced.

Section 10.22. Temporary Structures and Vehicles.

a. **Temporary Structures**: No temporary structure of any kind shall be erected or placed upon any Lot. No house, home trailer, mobile home, modular or prefabricated home, tent, shack, barn, shed, or any other structure or building other than the residence to be built thereon, shall be placed, fabricated, or constructed on any Lot, either temporarily or permanently, and no residence, house, garage, shed, or other structure appurtenant thereto shall be moved upon any Lot from another location.

b. **Declarant & Builder Exceptions**: Declarant reserves the exclusive right to erect, place and maintain, and to permit builders to erect, place and maintain such facilities in and upon the Property as in its sole discretion may be necessary or convenient during the period of and in connection with the sale of Lots, construction and selling of residences and constructing other improvements on the Properties. Such facilities may include, but not necessarily be limited to, a temporary office building, storage area, signs, portable toilet facilities and sales office. Declarant and builders shall also have the temporary right to use a residence situated on a Lot as a temporary office or model home during the period of and in connection with the construction and sales operations on the Properties, but in no event, shall a builder have such right for a period in excess of one (1) year after the date of substantial completion of his last residence on the Properties.

c. **Temporary Vehicles**: Owners shall endeavor to ensure that campers, motor homes, recreational vehicles, boats, boat trailers, buses, boats, trailers, campers, motorcycles, horse trailers, or any motorized vehicles other than a conventional automobile are stored, placed, or parked within the garage of the appropriate Owner so as to be completely hidden from view. Owners may have these items placed in public view no more than seven days per calendar month.

d. **Commercial Vehicles and Large Vehicles**: Commercial vehicles, skid steers, large tractors, and large trucks shall not be permitted to park overnight on the streets, driveways, or otherwise within the Property. No vehicle of any size which transports inflammatory or explosive cargo may be parked or stored within the Property at any time. Vehicles must be parked in garages to the maximum extent possible. These provisions shall not apply to a Builder who is building a residential structure upon a lot.

e. **Misc. Parking Provisions**. All parking of vehicles shall be subject to such reasonable Rules and Regulations as shall be adopted by the Board of Directors. No vehicles, personal or business, shall block any residence's personal driveways without permission. No vehicle may exceed the posted speed limit within the community. 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 Board of Directors. Parking in driveways is permitted; provided, however, no inoperable vehicles, no stored vehicles, or vehicles not utilized on a daily basis shall be permitted to be parked or stored in driveways.

Section 10.23. Signs & Flags. No signs shall be displayed to the public view on any Lot with the exception of signs promoting the sale of a particular Lot. Signs must be of customary dimensions (2' x 3' maximum) advertising said property for sale. Notwithstanding anything herein contained to the contrary, and all signs, if allocated, shall comply with all signs standards of Wise County, Texas, Texas, as such standards may be applicable to the Properties.

Political signs may be displayed by an owner no greater than 90 days prior to or 10 days after an election. Political signs must be ground mounted and only one political sign may be displayed for each candidate or ballot item. No owner may display a political sign that:

a. contains roofing material, siding, paving materials, flora, one or more balloons or lights, or any other similar building, landscaping, or nonstandard decorative component.
b. is attached in any way to plant material, a traffic control device, a light, a trailer, a vehicle, or any other existing structure or object;
c. includes the painting of architectural surfaces;
d. threatens the public health or safety;
e. is larger than four feet bysix feet;
f. violates a law;
g. contains language, graphics, or any display that would be offensive to the ordinary person; or
h. is accompanied by music or other sounds or by streamers or is otherwise distracting to motorists.

The Association may remove a sign displayed in violation of this Section 10.23.

Flags of the United States, Texas, or United States Military may be displayed in accordance with applicable Texas law.

Section 10.24. Utility Services. All services to the home including pre-wiring cable TV must be installed underground. Surface mounted mechanical must be screened from view and grouped together away from street/public view. All streets, alleys, and Easements shown on the recorded Plat of the Property have been reserved for the purposes indicated. No Owner may erect any structure of any type whatsoever in these Easement areas, nor may any Owner use the surface of an Easement area for any private use; With respect to these Easement areas, as well as any other areas described within recorded Easement Documents, or in the Common Properties, any and all bona fide public utility service companies shall have the right of access, ingress, egress, regress, and use of the surface estate and necessary underground area for the installation and maintenance of utility facilities.

Except as to any special street lighting or other areas facilities that may be required by law or by the franchise of any utility company, no area utility facilities of any type (except meters, risers, service pedestals, and other service installations necessary to maintain and operate appropriate facilities) shall be erected or installed within the Property, whether upon Lots, easements, streets, or right-of way of any

type, either by the utility company or any other person or entity, (including, but not limited to any person owning or acquiring any part of the Property) and all utility service facilities (including, but not limited to water, sewer, gas, electricity, and telephone) shall be buried underground, under recreational easements, Common Properties, streets, or utility easement areas for the purpose of serving any structure located on any part of the Property.

Section 10.25. Drilling and Mining Operations. No portion of the Property covered by this Declaration may be used for any purpose incident to exploring for, developing, drilling for, producing, transporting, mining, treating, or storing the oil, gas, and other minerals in, on, and under the subject Property. Nothing herein contained shall ever be construed to prevent the holder of the oil, gas, and other minerals rights in and under the Property from developing or producing the oil, gas, and other minerals in and under the subject Property by pooling or by directional drilling under the subject Property from well sites located on tracts outside the subject Property. The Association may install a water well upon common area property.

Section 10.26. Offensive Activities.

a. No noxious or offensive activity shall be carried out upon the Properties, or Lots, or any part thereof, nor shall anything be done or maintained thereon which may disturb the neighborhood or occupants or adjoining property, or detract from its value as an attractive residential community. The Board of Directors shall have the exclusive authority to determine, in its sole discretion, which may constitute a nuisance or offensive activity. Without limitation, no horns, bells, or other sound devices, excluding security devices, shall be used or placed on the Property. Exterior speakers must have prior ARC approval. Pets shall not be permitted to run at large, but shall be kept under control by Owners, or guest of the Owners, by leash, cord, or chain. Habitually barking, howling, or yelping pets shall be deemed a nuisance. The Board of Directors shall have the exclusive authority to determine, in its sole and absolute discretion, if a particular animal, bird, or pet is creating a nuisance.

b. The owner of each lot within the subdivision shall keep the lot neatly mowed at all times, and shall not allow rubbish, trash, or other unsightly articles to accumulate on the lot or in any common area, easement, or street adjacent to the lot. The Association shall have the right and responsibility to have any lot not properly maintained cleaned to comply with this paragraph, and any reasonable expenses so incurred shall be charged to the owner of the lot, and such charge shall become a lien against the lot if unpaid.

c. No noxious or offensive activity shall be carried on upon the Property or any part thereof which may be or may become an annoyance or nuisance to some other owner.

d. No exterior lighting of any sort shall be installed on any lot within the subdivision where such light source is offensive or a nuisance to neighboring owners. Any outside lighting that may be or may become an annoyance or nuisance to some other owner, shall be turned off no later than 10 PM unless prior notice has been given to lot owners of the subdivision.

e. No exterior speakers, horns, whistles, bells or other sound generating devices which are offensive or a nuisance to neighboring owners of subdivision lots shall be placed or used within the subdivision except security devices used exclusively to protect the improvements erected upon a subdivision lot. No excessive

noise/construction including loud music which are offensive or a nuisance to owners of subdivision lots shall commence prior to 8 AM or after 10 PM unless prior notice has been given to lot owners of the subdivision.

f. No outside toilets or privies will be permitted on any lot in the subdivision, except for temporary construction facilities. All toilet facilities, sinks, lavatories, washing machines, drains, etc. shall be connected to a sewage collection system meeting the approval of all appropriate health authorities and complying with the appropriate governmental regulations and laws. Under no circumstances will any waste-water other than natural storm drainage be allowed to drain into the bay or into a canal.

g. No stables, pens, barns, kennels, or other accommodations for livestock or fowl shall be permitted on any lot within the subdivision, nor shall any livestock or fowl be kept or maintained on any lot within the subdivision.

Section 10.27. Duty of Maintenance.

a. Unless otherwise noted within this Declaration, Owners and occupants (including lessees) of any Lot shall, jointly and severally, have the duty and responsibility, at their sole cost and expense, to keep the Lot so owned or occupied, including buildings, improvements, grounds, or drainage easements or other right-of-way incident thereto, and vacant land, in a well maintained, safe, clean, and attractive condition at all times. Such maintenance includes but it not limited to, the following:

1. Prompt removal of all litter, trash, refuse, and waste;
2. Lawn mowing on a regular basis. Owners must mow the entirety of their Lot on a regular basis, including Front, Side, and Rear yards;
3. Tree and shrub pruning;
4. Watering landscaped areas;
5. Keeping exterior lighting and maintenance facilities in working order;
6. Keeping lawn and garden areas alive, free of weeds, and attractive;
7. Keeping parking areas, driveways, and curbs in good repair;
8. Complying with government health and police requirements;
9. Repair of exterior damages due to improvements;
10. Cleaning of landscaped areas lying between street curbs and Lot lines, unless such streets or landscaped areas are expressly designated to be Common Properties or Easement Property maintained by applicable governmental authorities or the Association; and
11. Repainting of improvements.

b. If, in the opinion of the Association, any such Owner or occupant has failed in any of the foregoing duties or responsibilities, then the Association may avail itself of remedies included within this Declaration, including the right of self-help.

c. Notwithstanding the provisions of the Section above, if, at any time, an Owner shall fail to control weeds, grass, and/or other unsightly growth, the Association shall have the authority and right to go onto the Lot of such Owner for the purpose of mowing and cleaning said Lot and shall have the authority and right to assess and collect from the Owner of said Lot a sum up to two (2) times the actual cost to the Association for mowing and cleaning said Lot on each respective occasion of such mowing or cleaning. If, at any time, weeds or other unsightly growth on the Lot exceed six inches (6") in height, the Association shall have the

right and authority to mow and clean the Lot, as aforesaid.

d. The Owners and occupants (including lessees) of any Lot on which work is performed pursuant to this section shall, jointly and severally, be liable for the cost of such work (such costs constituting a Special Individual Assessment) and shall promptly reimburse the Association for such cost. If such Owner or occupant shall fail to reimburse the Association within thirty (30) days after receipt of a statement for such work from the Association, then said indebtedness shall be a debt of said persons, jointly and severally, and shall constitute a lien against that portion of the Properties on which said work was performed. Such lien shall have the same attributes as the lien for Assessments and Individual Assessments set forth in this Declaration, and the Association shall have the identical powers and rights in all respects, including but not limited to the right of foreclosure.

Section 10.28. Animals. No birds, animals, livestock, or poultry of any kinds shall be raised, bred, or kept on any part of the Properties, except that not more than two (2) dogs and (2) indoor cats may be kept on any Lot, and then only if they are kept, bred, or raised solely as domestic pets and not for commercial purposes. Such pets must be kept within the private fenced yard of the Owner or indoors within their residence. No horses or barnyard animals shall be kept on the Property. Pets shall not be permitted to run at large, but shall be kept under the control of Owner, or guests of the Owners, by leash, cord, or chain. Each owner is responsible for cleaning up after their pet should they defecate upon any open area of the Property.

Section 10.29. Window Coolers. No window or wall type air-conditioners or water coolers shall be permitted to be used, erected, placed or maintained on or in any residential building on any part of the Properties.

Section 10.30. Construction Requirements.

a. The exterior surface of all residential dwellings shall be constructed of brick, stone, stucco, masonry, or other materials approved by the Architectural Review committee, to the extent of at least 100% of the outside walls, excluding windows, doors, dormers, areas above roofing and wood columns and shall meet or exceed the building standards established by Wise County. No previously used materials, other than fired antique brick, shall be permitted on the exterior of the residential structures located within the Properties, without the prior written approval of the Architectural Review committee.

b. Roofs may be constructed of composition shingles with a minimum 30-year rating in Weatherwood, Charcoal and other colors and materials approved, in writing, by the Architectural Review committee. Barrel Tile, Flat Concrete Tile and Standing Metal Seam roof materials are also permitted. The Architectural Review committee will only approve roofing materials which are of a quality consistent with the external design, color and appearance of other improvements within the subdivision. The primary roof pitch of any structure shall be 8:10 minimum, while architectural elements such as covered porches and patios may be 4:12 minimum. Any deviation of roof pitch must be approved in writing by the Architectural Review committee. Exterior paint and stain colors shall be subject to the written approval of the Architectural Review committee.

c. Each residential structure shall have installed on the outside wall thereof a service riser conduit, the location and length of such conduit to be subject to the written

approval of the Architectural Review committee; provided, however, no such conduit shall be located on the front of the residence.

d. The location and design of any proposed swimming pool, including fencing, pumps, backwash, and any other related paraphernalia must be approved in writing by the Architectural Review committee. No above ground-level swimming pools shall be installed on any Lot. This provision is not intended to prohibit inflatable pools, no greater than twenty four inches (24") in depth, typically used by toddlers ("small pools"). Small pools may only be located in the rear of a residence and not visible from the street.

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

e. No projections of any type shall be placed or permitted to remain above the roof of any residential building with the exception of one or more chimneys and one or more vent stacks without the written permission of the Architectural Review committee.

f. A minimum two house separation shall be required between any similar elevation or any similar color scheme. This requirement applies to houses on the same side of the street and across the street, where there shall be two houses of separation before the elevation or color scheme repeats.

Section 10.31. Garages. Each residential dwelling erected on any Lot shall provide garage space for a minimum of two (2) conventional automobiles. All garage doors shall be closed at all times when not in use. Detached garages, and storage rooms must be approved in writing by the Architectural Review committee and must be constructed in accordance with the requirement of Wise County. No carport shall be built, placed, constructed or reconstructed on any Lot. As used herein, the term "carport" shall not be deemed to include a porte cochere. No garage shall ever be changed, altered, reconstructed or otherwise converted for any purpose inconsistent with the garaging of automobiles, unless a new garage is constructed to meet the requirements of this Section. Garages shall not face the front road. All garages must be side or rear entry.

Section 10.32. Removal of Dirt. The digging of dirt or the removal of any dirt from any Lot is prohibited, except as necessary in conjunction with landscaping or construction of improvements thereon. Minimum finished floor elevations, if any, established on the Plat shall be maintained. Shall not alter draining of development.

Section 10.33. Basketball Goals/Hoops. With the prior written consent of the Architectural Review committee, basketball goals, hoops, backboards and nets shall be permitted; provided, however, in no event shall such structure be allowed in the area between the front of the dwelling and the street adjacent thereto.

ARTICLE XI
MAINTENANCE AND REPAIR OBLIGATIONS

Section 11.1. Association Maintains. The Association's maintenance obligations will be discharged when and how the board deems appropriate.

a. **Required Maintenance.** The Association maintains, repairs, and replaces, as a common expense, the portions of the Property listed below, regardless of whether the portions are on lots, in public rights of way, or in common areas.
   1. The common areas.
   2. Any real and personal property owned by the Association but which is not a common area, such as a lot owned by the Association.
   3. Any area, item, easement, or service, whether located within or outside the Property, the responsibility for which is assigned to the Association by law, ordinance, court order, a governmental entity, an agreement to which the Association is a party, this Declaration, the plat, or any other publicly recorded document to which the Property is subject.

b. **Discretionary Maintenance.** The Association may, but is not required to, use common funds to maintain property adjacent to or near Lola Creek Ranch Homeowners Association, Inc. if maintenance of same is deemed by the board in its sole discretion to be in the best interests of the Association, and if not prohibited by the owner or operator of said property, such as periodic litter removal from an adjacent public right-of-way (by way of example only).

Section 11.2. Owner Responsibility. Every owner has the following responsibilities and obligations for the maintenance, repair, and replacement of the Property. In addition to those obligations as set forth within this Declaration, additional responsibilities may be set forth within the Rules and Regulations of the Community as well as the dedicatory instruments of the Association.

a. **Maintenance.** Each owner, at the owner's expense, must maintain all improvements on the lot, such as (if any, without limitation) the dwelling, fences, sidewalks, driveways, drainage features, grounds, and landscaping. Maintenance includes preventative maintenance, repair as needed, and replacement as needed. Each owner is expected to maintain his lot's improvements at a level, to a standard, and with an appearance that is commensurate with the neighborhood. Specifically, each owner must repair and replace worn, rotten, deteriorated, and unattractive materials, and must regularly repaint all painted surfaces.

b. **Avoid Damage**. An owner may not do any work or to fail to do any work which, in the reasonable opinion of the board, would materially jeopardize the soundness and safety of the Property, reduce the value of the Property, adversely affect the appearance of the Property, or impair any easement relating to the Property.

c. **Responsible for Damage.** An owner is responsible for his own willful or negligent acts and those of his or the resident's family, guests, agents, employees, or contractors when those acts necessitate maintenance, repair, or replacement to the common areas or the property of another owner.

Section 11.3. Owner's Default in Maintenance. If the board determines that an owner has failed to properly discharge his obligation to maintain, repair, and replace items for which the owner is responsible, the board may give the owner written notice of the Association's intent to provide the necessary maintenance at owner's expense. The notice must state, with reasonable particularity, the maintenance deemed necessary and a reasonable period of time in which to complete the work. If the owner fails or refuses to timely perform the maintenance, the Association may do so at owner's expense, which ls an individual assessment against the owner and his lot. In case of an emergency, however, the board's responsibility to give the owner written notice may be waived and the board may take any action it deems necessary to protect persons or property, the cost of the action being the owner's expense.

Section 11.4. Fences Between Lots. The concept of shared fences is intended to be more space-efficient, material-efficient, and cost-efficient than each owner separately fencing his own lot, with two fences abutting. Sharing fences requires cooperation and flexibility by and between owners of adjoining lots. Owner may not place two fences side-by-side along a Lot line. A fence or other type of partition located on or near the dividing line between two lots and intended to benefit both lots constitutes a "Party Wall" and, to the extent not inconsistent with the provisions of this Section, is subject to the general rules of law regarding party walls and liability for property damage due to negligence, willful acts, or omissions.

a. **Encroachments & Easement**. If the Party Wall is on one lot or another due to an error in construction, the Party Wall is nevertheless deemed to be on the dividing line for purposes of this Section. Each lot sharing a Party Wall is subject to an easement for the existence and continuance of any encroachment by the Party Wall as a result of construction, repair, shifting, settlement, or movement in any portion of the Party Wall, so that the encroachment may remain undisturbed as long as the Party Wall stands. Each lot is subject to a reciprocal easement for the maintenance, repair, replacement, or reconstruction of the Party Wall.

b. **Right to Repair.** If the Party Wall ls damaged or destroyed from any cause, the owner of either lot may repair or rebuild the Party Wall to its previous condition, and the owners of both lots, their successors and assigns, have the right to the full use of the repaired or rebuilt Party Wall.

c. **Right of Access.** The owner of the lot on each side of the Party Wall hereby grants to the owner of the lot on the other side of the Party Wall a reciprocal access easement for maintenance, repair, replacement, or reconstruction of the Party Wall, as appropriate and necessary to effect the purposes and provisions of this Section.

d. **Maintenance Costs.** The owners of the adjoining lots share equally the costs of repair, reconstruction, or replacement of the Party Wall, subject to the right of one owner to call for larger contribution from the other under any rule of law regarding liability for negligence or willful acts or omissions. If an owner is responsible for damage to or destruction of the Party Wall, that owner will bear the entire cost of repair, reconstruction, or replacement. If an owner fails or refuses to pay his share of costs of repair or replacement of the Party Wall, the owner advancing monies has a right to file a claim of lien for the monies advanced in the Real Property Records of Wise County, Texas, and has the right to foreclose the lien as if it were a mechanic's lien. The right of an owner to contribution from another owner under this Section is appurtenant to the land and passes to the owner's successors in title.

e. **Alterations.** The owner of a lot sharing a Party Wall may not cut openings in the Party Wall or alter or change the Party Wall in any manner that affects the use, condition, or appearance of the Party Wall to the other lot, without the prior written consent of the owner of the other lot. Unless both owners reach a mutual decision to the contrary, the Party Wall will always remain in the same location as where initially erected.

f. **Retaining Walls.** This Subsection applies if adjoining lots in portions of Lola Creek Ranch Homeowners Association, Inc. have elevations that are sufficiently different to require a retaining wall, such as occurs in properties with rolling or sloping terrain. Two adjoining lots with significantly different elevations may have a retaining wall located on or near the dividing line between the two lots and intended to benefit both lots. The lot having the higher elevation is referred to in this Subsection as the "Higher Lot," and the lot having the lower elevation is referred to as the "Lower Lot." By acquiring an ownership interest in a lot that contains, abuts, or is supported by a retaining wall, the owner acknowledges and accepts responsibility for protecting the retaining wall from damage and for communicating with the owner of the adjoining lot about any condition that damages or threatens to damage the retaining wall. The owner of the Lower Lot is hereby granted a non-exclusive and perpetual right and easement of enjoyment and use over the exterior surface of the Party Wall for use as a perimeter wall or fence of the Lower Lot. The owner of the Lower Lot is responsible for maintaining the grounds up to the Party Wall, even if the Party Wall is inside the boundaries of the Higher Lot. The owner of either the Higher Lot or the Lower Lot may construct a fence in connection with the retaining wall. The owner of the Higher Lot may construct or install a fence inside the Party Wall on the elevated surface of the Higher Lot, or, with the prior approval of the Lower Lot owner, on the Party Wall itself. The owner of the Lower Lot may construct or install a fence on his lot, provided the fence does not interfere with his duty to maintain the grounds up to the Party Wall. The fences permitted by this Subsection are not considered a part of the Party Wall for purposes of the remainder of this Section. Maintenance of retaining walls is subject to the Retaining Walls Chapter of the dedicatory instruments of the Association.

ARTICLE XII
MORTGAGEE PROTECTION

Section 12.1. First Mortgagee Rights. This Article establishes certain standards for the benefit of a holder, insurer, or guarantor of a purchase money mortgage secured by a recorded senior or first deed of trust lien against a lot, or any renewal, modification, or refinancing thereof ("First Mortgagee"). Each First Mortgagee has the following rights under this Declaration:

a. **Lien Superiority.** As stated in the Assessment Lien Article of this Declaration, the lien in a First Mortgagee's recorded deed of trust is superior to the Association's lien for assessments.

b. **Representation.** In dealing with the Association, a First Mortgagee may be represented by a mortgage servicer, agent, or representative.

c. **Termination.** An action to terminate the legal status of the Property after substantial destruction or condemnation must be approved by the First

Mortgagees on at least a majority of the lots that are subject to an outstanding purchase money mortgage, in addition to the required consents of owners. An action to terminate the legal status for reasons other than substantial destruction or condemnation must be approved by the First Mortgagees on at least two-thirds of lots that are subject to an outstanding purchase money mortgage.

d. **Books & Meetings.** A First Mortgagee may inspect the Association's books and records, including the Governing Documents, by appointment, during normal business hours. A First Mortgagee may attend and address any meeting which an owner may attend.

e. **Financial Statements.** A First Mortgagee may have an audited statement of the
e. Association's books and records prepared at its own expense. If the Association
e. obtains an audited statement for its members, if a First Mortgagee so requests, the Association will give the First Mortgagee an audited statement for the preceding fiscal year within 120 days after the Association's fiscal year-end.

f. **Right of First Refusal.** As initially written, this Declaration does not create a right of first refusal. Any right of first refusal imposed in the future by the Association with respect to a lease, sale, or transfer of a lot does not and may not apply to a lease, safe, or transfer by a First Mortgagee, including transfer by deed in lieu of foreclosure or foreclosure of a deed of trust lien.

g. **Amending Governing Documents**. If a First Mortgagee requests from the Association compliance with the mortgage underwriting guidelines of a National Lender, the board, without approval of owners or First Mortgagees, may amend this Article and other provisions of the Governing Documents, as necessary, to meet the requirements of the National Lender. This Article is supplemental to, not a substitution for, any other provision of the Governing Documents. In case of conflict, this Article controls.

Section 12.2. Consents of Mortgagees. If the Governing Documents or applicable law require the consent of mortgagees for an act, decision, or amendment by the Association, the approval of a mortgagee is Implied when the mortgagee fails to respond within 60 days after receiving the Association's written request for approval of the act, decision or amendment, provided the Association's request to the mortgagee was delivered by certified or registered mail, return receipt requested.

ARTICLE XIII
AMENDMENTS

Section 13.1. Amendment by or Affecting Declarant. In this Declaration, particularly in the Article titled Covenants for Declarant's Benefit and the attached Appendix B, Declarant reserves certain superior rights to amend this Declaration and the other Governing Documents, and rights to approve certain amendments.

Section 13.2. Amendment by Board. The board may not unilaterally amend this Declaration or the dedicatory instruments of the Association, except for the following limited purposes, which must be clearly identified in the instrument of amendment, and then **only to the extent necessary to achieve the permitted goal**, and only with the unanimous written consents of all directors, there being no vacancy on the board:

a. To qualify the Property or the Association for mortgage underwriting, tax exemption, insurance coverage, or any public or quasi-public program or benefit,

if doing so is in the best interests of the Association and its members.

b. To correct an obvious error that affects the validity or enforceability of the document, if doing so is in the best interests of the Association and its members.

c. To comply with a requirement of applicable law that requires a specific provision to be included in or removed from a document.

d. As necessary or advisable to accommodate the applicability of this Declaration or the dedicatory instruments of the Association to the lots and owners in Lola Creek Ranch Homeowners Association, Inc.

Section 13.3. Amendment by Members. Except for certain amendments of this Declaration that may be executed by Declarant alone, or by the board alone, amendments to this Declaration must be approved by owners of fifty-one percent (51%) of the lots. Approval of owners does not require that the amendment be signed by the consenting owners, or that consents be executed and acknowledged by the approving owners. For an amendment of this Declaration that requires the approval of owners, the consents may be solicited by any method selected by the board from time to time, pursuant to the Bylaws and applicable law, provided the method gives an owner of each lot the substance if not exact wording of the proposed amendment, a description of the effect of the proposed amendment, and an opportunity to vote for or against the proposed amendment.

Section 13.4. Effective. To be effective, an amendment approved by the owners or by the board must be in the form of a written instrument (1) referencing the name of the Property, the name of the Association, and the recording data of this Declaration; (2) signed and acknowledged by an officer of the Association, certifying the requisite approval of owners or directors and, if required, First Mortgagees; and (3) recorded in the Real Property Records of Wise County, Texas, except as modified by the following section.

Section 13.5. Annexation. Subject to the exception below, additional land may be annexed to the Property and subjected to this Declaration and the jurisdiction of the Association by the Association with the consent of owners representing at least two-thirds of the lots in the Property, and the consent of the owner of the real property being annexed. Annexation of additional property is accomplished by recording an amendment of annexation or a supplemental declaration in the Real Property Records of Wise County, Texas.

a. **Declarant's Exception.** Declarant may unilaterally subject Additional Land to this Declaration pursuant to Appendix B.

Section 13.6. Appendixes. To amend an Appendix of this Declaration, it is not necessary to restate and re-record this entire Declaration. Each Appendix of this Declaration may be amended, restated, and supplemented individually as an amendment of this Declaration.

Section 13.7. Ordinance Compliance. When amending a Governing Document, the Association must consider the validity and enforceability of the amendment in light of applicable law, such as (if any) subdivision ordinances of a local government.

Section 13.8. Merger. Merger or consolidation of the Association with another association must be evidenced by an amendment to this Declaration. The amendment must be approved by owners of at least a majority of the lots. Upon a merger or consolidation of the Association with another association, the property, rights, and obligations of another association may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving association pursuant to the merger.

The surviving or consolidated association may administer the provisions of the Governing Documents within the Property, together with the covenants and restrictions established upon any other property under its jurisdiction. No merger or consolidation, however, will effect a revocation, change, or addition to the covenants established by this Declaration within the Property.

Section 13.9. Termination. Termination of the terms of this Declaration and the status of the Property as a planned unit development are according to the following provisions. In the event of substantially total damage, destruction, or public condemnation of the Property, an amendment to terminate must be approved by owners of at least sixty-seven percent (67%) of the lots. In the event of public condemnation of the entire Property, an amendment to terminate may be executed by the board without a vote of owners. In all other circumstances, an amendment to terminate must be approved by owners of at least eighty percent (80%) of the lots. If a local government requires its prior approval of a change of status for the Property or to terminate the Association, the amendment must also be executed by the local government.

Section 13.10. Condemnation. In any proceeding, negotiation, settlement, or agreement concerning condemnation of a common area, the Association will be the exclusive representative of the owners. The Association may use condemnation proceeds to repair and replace any damage or destruction of the common area, real or personal, caused by the condemnation. Any condemnation proceeds remaining after completion, or waiver, of the repair and replacement will be deposited in the Association's reserve funds.

ARTICLE XIV
INDEMNIFICATION & RELEASE AGAINST SELF-INTEREST

Section 14.1. Consideration. Each owner and resident grants the releases from liability contained in this Article as consideration for, and as a condition to, the owner and resident's use and enjoyment of the common areas of Lola Creek Ranch Homeowners Association, Inc. Each owner and resident acknowledges and agrees that the releases from liability contained in this Article are a material inducement to Declarant and to the Builders to sell, convey, lease, or allow the use of lots and homes in Lola Creek Ranch Homeowners Association, Inc.

Section 14.2. Indemnity for Association Operations. The Association indemnifies, defends, and holds harmless Declarant against any loss, claim, demand, damage, cost, and expense relating to or arising out of the management and operation of the Association, including without limitation, the collection of assessments, the enforcement of the Governing Documents, and the operation and maintenance of the common areas. Indemnified expenses include, without limitation, reasonable attorneys fees, whether or not a lawsuit is filed, and costs at all court levels, including expenses incurred by Declarant in establishing the right to be indemnified, defended, and held harmless pursuant to this Declaration.

Section 14.3. Release for Injury or Loss. Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, and each resident of any portion of the Property, covenants and agrees that the Association, the ARC, Declarant, and their respective directors, officers, committees, members, attorneys, agents, and employees (individually and collectively, the "**Indemnitees**") may not be held liable to any person claiming any loss or damage including, without limitation, indirect, special, or consequential loss or damage arising from personal injury or death, destruction of property, trespass, loss of enjoyment, or any other wrong or entitlement to remedy based

upon, due to, arising from, or otherwise relating to the design, construction, maintenance, or use of any common area, expressly including every item of equipment used in connection therewith, including, without limitation, any claim arising in whole or in part from the negligence of an indemnitee.

Section 14.4. Intent to Release from Negligence. Each Owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument on conveyance, and each resident of any portion of the Property by the act of occupancy, acknowledges that the releases and indemnities contained in this Article are intended to release and indemnify the Indemnitees from liability for their owner negligence or carelessness.

Section 14.5. Against Self-Interest of Owner or Occupant. Each owner and resident acknowledges that the releases and indemnitees in this Article are contrary to the self-interest of the owner or resident. in other words the releases and indemnities are not in the owner or resident's best interest.

ARTICLE XV
DISPUTE RESOLUTION

Section 15.1. Introduction & Definitions. The Association, owners, residents, Declarant, Builders, all persons subject to this Declaration, and any person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, the "**Parties**") agree to encourage the amicable resolution of disputes involving the Property and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Party hereby covenants and agrees that this Article applies to all claims as hereafter defined. As used in this Article only, the following words, when capitalized, have the following specified meanings:

a. "**Claim**" means any claim, grievance, or dispute between Parties involving the Properties, except Exempt Claims as defined below, and including without limitation:
   1. Claims arising out of or relating to the interpretation, application, or enforcement of the Governing Documents.
   2. Claims relating to the rights or duties of Declarant as Declarant under the Governing Documents.
   3. Claims relating to the design, construction, or maintenance of the Property.

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

c. "**Exempt Claims**" means the following claims or actions, which are exempt from this Article:
   1. The Association's claim for assessments, and any action by the Association to collect assessments.
   2. The Association's claim to enforce the restrictive covenants contained within this dedicatory instruments of the Association, including actions to enforce restrictive covenants contained within the Rules and Regulations, this Declaration, and dedicatory instruments of the Association.
   3. An action by a Party to obtain a temporary restraining order or equivalent emergency equitable relief, and such other ancillary relief as the court deems necessary to maintain the status quo and preserve the Party's ability to enforce the provisions of this Declaration.
   4. Enforcement of the easements, architectural control, maintenance, and use

restrictions of this Declaration.

5. A suit to which an applicable statute of limitations would expire within the notice period of this Article, unless a Party against whom the Claim is made agrees to toll the statute of limitations as to the Claim for the period reasonably necessary to comply with this Article.

d. "**Respondent**" means the Party against whom the Claimant has a Claim.

Section 15.2. Mandatory Procedures. Claimant may not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of its Claim until Claimant has complied with the procedures of this Article.

Section 15.3. Notice. Claimant must notify Respondent in writing of the Claim (the "Notice"), stating plainly and concisely: (1) the nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim; (2) the basis of the Claim (i.e., the provision of the Governing Documents or other authority out of which the Claim arises); (3) what Claimant wants Respondent to do or not do to resolve the Claim; and (4) that the Notice is given pursuant to this Section.

Section 15.4. Negotiation. Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within 60 days after Respondent's receipt of the Notice, Respondent and Claimant will meet at a mutually-acceptable place and time to discuss the Claim. At such meeting or at some other mutually-agreeable time, Respondent and Respondent's representatives will have full access to the property that is subject to the Claim for the purposes of inspecting the property. If Respondent elects to take corrective action, Claimant will provide Respondent and Respondent's representatives and agents with full access to the property to take and complete corrective action.

Section 15.5. Mediation. If the parties negotiate but do not resolve the Claim through negotiation within 120 days from the date of the Notice (or within such other period as may be agreed on by the parties), Claimant will have 30 additional days within which to submit the Claim to mediation under the auspices of a mediation center or individual mediator on which the parties mutually agree. The mediator must have at least 5 years of experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. If Claimant does not submit the Claim to mediation within the 30-day period, Claimant is deemed to have waived the Claim, and Respondent is released and discharged from any and all liability to Claimant on account of the Claim.

Section 15.6. Termination of Mediation. If the Parties do not settle the Claim within 30 days after submission to mediation, or within a time deemed reasonable by the mediator, the mediator will issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. Thereafter, Claimant may file suit or initiate administrative proceedings on the Claim, as appropriate.

Section 15.7. Allocation of Costs. Except as otherwise provided in this Section, each Party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, and Mediation sections above, including its attorneys fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator.

Section 15.8. Enforcement of Resolution. Any settlement of the Claim through negotiation or mediation will be documented in writing and signed by the Parties. If any Party thereafter fails to abide

by the terms of the agreement, then the other Party may file suit or initiate administrative proceedings to enforce the agreement without the need to again comply with the procedures set forth in this Article. In that event, the Party taking action to enforce the agreement is entitled to recover from the non-complying Party all costs incurred in enforcing the agreement, including, without limitation, attorneys fees and court costs.

Section 15.9. General Provisions. A release or discharge of Respondent from liability to Claimant on account of the Claim does not release Respondent from liability to persons who are not party to Claimant's Claim. A Party having an Exempt Claim may submit it to the procedures of this Article.

Section 15.10. Litigation Approval & Settlement. To encourage the use of alternative dispute resolution and discourage the use of costly and uncertain litigation, the initiation of any judicial or administrative proceeding by the Association is subject to the following conditions in addition to and notwithstanding the above alternate dispute resolution procedures. Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to be bound by this Section. This Section may not be amended without the approval of owners of at least 67 percent of the lots.

a. **Higher Approval of Certain Suits.** Except to obtain a temporary restraining order when circumstances warrant, the Association may not initiate any judicial or administrative proceeding against a current or former officer or director of the Association, the ARC, Declarant, or a Builder without the approval of owners representing at least 75 percent of the lots because of the potential for counterclaims and the costs and liabilities appurtenant thereto.

   The Association must levy a special assessment to fund the estimated costs of litigation prior to initiating a judicial or administrative proceeding under Section 15.10(b). The Association may not use its annual operating income, reserve funds, or savings to fund this litigation, unless the Association's annual budget or a savings account was established and funded from its inception as a litigation reserve fund.

b. **Settlement.** The board, on behalf of the Association and without the consent of owners, is hereby authorized to negotiate settlement of litigation, and may execute any document related thereto, such as settlement agreements and waiver or release of claims.

Section 15.11. Construction-Related Disputes. In addition to the above procedures, a claim relating to an alleged construction defect may be governed by Texas statutes relating to residential construction, such as Chapter 27 of the Texas Property Code, the Residential Construction Liability Act.

ARTICLE XVI
HOME SALES & RESALES

Section 16.1. General. In the era in which this Declaration is written, the law pertaining to the sale and resale of residential lots governed by a mandatory property owners association is evolving. The purpose of this Article is to formalize the process by which Association-related fees are imposed on lot sales. An obligation to the Association or its managing agent for transfer-related fees on a lot conveyance varies by whether the lot is vacant or improved with a home, and whether the home is new or a resale. Lot sales in the Property are not subject to a right of first refusal in favor of the Association or its individual

members. An owner who sells his lot under an executory contract (contract for deed) may delegate his membership rights to the contract purchaser, provided a written assignment signed by the contract seller and purchaser is delivered to the board. However, the contract seller remains liable for all assessments attributable to his lot until fee title to the lot is transferred.

Section 16.2. HOA Sale Fees. "**HOA Sale Fee**" means a non-refundable expense, fee, charge, or contribution that is charged by the Association or its manager in connection with the sale or purchase of a lot, pursuant to the Governing Documents, applicable law, or a management contract to which the Association is a party. A buyer's prepaid or pro-rata assessments are not HOA Sale Fees. HOA Sale Fees are generally of two types - budget enhancing fees (also known as "cap fees"), such as contributions to the reserve or operating funds of the Association, and administrative fees (also known as "transfer fees"), such as fees for resale certificates and ownership record changes. The Association and its manager may waive some or all HOA Sale Fees on a transfer by transfer basis, without waiving the right to charge such fees on future transfers.

Section 16.3. Administrative Transfer Fees. Transfer-related administrative fees may be charged and collected only pursuant to a contract, policy, or resolution adopted by the board identifying the type, purpose, amount, and beneficiary of each administrative transfer fee charged to an owner or prospective owner by the Association or its managing agent. The number, amounts, and types of administrative transfer fees may not exceed what is customary for the local marketplace. To be effective, the contract, policy, or resolution must be signed by an officer of the Association, certifying approval by the board. This Article does not require the Association or its manager to levy administrative HOA Sale Fees.

Section 16.4. New Home Sales. HOA Sale Fees pertaining to sales of vacant lots to Builders and New Home Sales are addressed at the end of Appendix C of this Declaration. The Association may not determine or change any aspect of HOA Sale Fees pertaining to the conveyance of New Homes and vacant lots or land without Declarant's prior consent in a publicly recorded writing that is dated, signed, and acknowledged by Declarant, which consent may not be deemed from any act, omission, or other writing. This Section will cease to apply to the Property upon Sell-Out.

Section 16.5. Home Resales. This Section applies to every "**Home Resale**", being the sale or conveyance of a residential lot that is improved with a completed dwelling, and for which the selling owner is a person other than Declarant or a Builder. This Section does not apply to the sale of vacant lots and New Home Sales by Declarant or Builders.

a. **Resale Certificate.** An owner intending to sell his home will notify the Association and will request a resale certificate from the Association. The resale certificate provided by the Association or its manager must state the amount, type, and payee of each HOA Sale Fee, which must conform to the Association's contract, policy, or resolution then in effect.

b. **Amounts.** At time of closing a Home Resale, the following amounts are due and payable by buyer or seller of a Home Resale, subject to the limited exclusions below.
   1. To the Association, a one-time contribution to the Association's reserve funds, in the amount of one-half the annual regular assessment for each lot purchased.
   2. If any, the customary administrative HOA Sale Fees, payable to the Association or its manager, as directed at time of closing.

c. **Notice of Obligation.** HOA Sale Fees on a Home Resale may be paid by either the

seller or the buyer, per their negotiations, and are typically collected at closing. If HOA Sale Fees are not collected at closing, the buyer remains liable to the Association or to the manager, as applicable, for the fee until the fee is received. HOA Sales Fees may not be avoided by effecting the transfer without the services of a title company.

d. **Information.** Within 30 days after acquiring an interest in an improved lot, an d. owner will provide the Association with the following information: a copy of the d. settlement statement or deed by which owner has title to the lot; the owner's d. email address (if any), U. S. postal address, and phone number; any mortgagee's d. name, address, and loan number; the name and phone number of any resident d. other than the owner; the name, address, and phone number of owner's managing agent, if any.

Section 16.6. Changes in Amounts. Notwithstanding the Amendments Article of this Declaration, the board, without a vote of the owners, may amend this Article for the following two purposes only: (1) to change the amount or formula stated for HOA Sale Fees on Home Resales, or (2) to conform this Article with applicable law regarding HOA Sale Fees on Home Resales. The change of amount or formula is not effective unless stated in a writing that is publicly recorded in the Real Property Records of Wise County, Texas, signed and acknowledged by an officer of the Association. If the change of amount results in an overall reduction of HOA Sale Fees for a conveyance that is pending at the time of the change, the lower rate is effective immediately for any closing that occurs after the date the notice of change is publicly recorded. If the change of amount results in an overall increase of HOA Sale Fees for the lot being conveyed at the time of the change, the increased amount is not effective until the 90th day after the date on which the notice of change is publicly recorded.

Section 16.7. Exclusions. Except for the above duty to provide the Association with information at time of transfer, the requirements of this Article, including the obligation for HOA Sale Fees, do not apply to the following transfers: (1) foreclosure of a mortgagee's deed of trust lien, a tax lien, or the Association's assessment lien; (2) conveyance by a mortgagee who acquires title by foreclosure or deed in lieu of foreclosure; (3) transfer to, from, or by the Association; (4) voluntary transfer by an owner to one or more co-owners, or to the owner's spouse, child, or parent; (5) a transfer by a fiduciary in the course of administering a decedent's estate, guardianship, conservatorshlp, or trust; (6) a conveyance pursuant to a court's order, including a transfer by a bankruptcy trustee; (7) a disposition by a government or governmental agency; or (8) a transfer from Declarant to a successor Declarant or to an affiliate of Declarant.

ARTICLE XVII
COVENANTS FOR DECLARANT'S BENEFIT

This Article highlights, emphasizes, and reasserts certain rights reserved elsewhere in this Declaration for the benefit of Declarant. By acquiring an ownership interest before the Property during the Development Period, each owner agrees to be bound by the terms of this Declaration, including without limitation the terms of this Article.

Section 17.1. Ownership not Required. As stated in Appendix B. Declarant's rights and reservations under this Declaration are not contingent on Declarant's ownership of a lot. However, if it becomes necessary or desirable for Declarant to own land subject to this Declaration in order to exercise a Declarant right or reservation, Declarant hereby reserves the right to acquire or re-acquire an ownership

interest in one or more lots or unplatted parcels in the Property for that purpose, in addition to Declarant's right to unilaterally subject Additional Land to this Declaration.

Section 17.2. Association Finances. Declarant and property owned by Declarant or its affiliates are exempt from assessment by the Association. During the Declarant Control Period, the Association may apply all monies received from owners to the operating expenses of the Association, and is not required by this Declaration to fund reserve accounts, even if a projected build-out budget for the Association shows contributions to reserves. During the Declarant Control Period only, Declarant may contribute or loan money to the Association if monies received from owners are not sufficient to cover the Association's operating expenses. After the Declarant Control Period, the Association must adopt a budget that can be funded fully by owners other than Declarant or its affiliates.

Section 17.3. Amending Governing Documents. Declarant has an exclusive right to unilaterally amend this Declaration and every other Governing Document for any purpose, as stated in Appendix B. A provision of this Declaration or any other Governing Document that pertains in any way - directly or indirectly - to Declarant or Builders, or to their rights and reservations under this Declaration, such as this Article and Appendixes B and C (without limitation), may not be amended without Declarant's written and acknowledged consent, which must be part of the recorded amendment instrument. Nor may this Declaration or any other Governing Document be amended to increase the liabilities or responsibilities of Declarant or Builders, without Declarant's written and acknowledged consent, which must be part of the recorded amendment instrument. An amendment that may be executed by Declarant alone is not required to name the Association or to be signed by an officer of the Association.

Section 17.4. Appendixes B and C. The provisions of Appendixes B and C of this Declaration control over anything to the contrary in the main body of this Declaration or in any other Governing Document. This Declaration may not be published, amended, or restated without Appendixes B and C, without Declarant's written and acknowledged consent on the amendment, restatement, or publication of this Declaration.

ARTICLE XVIII
GENERAL PROVISIONS FOR ALL GOVERNING DOCUMENTS

Section 18.1. Higher Authority. The Governing Documents are subordinate to federal and state law, and local ordinances. Generally, the terms of the Governing Documents are enforceable to the extent they do not violate or conflict with local, state, or federal law or ordinance. Among the Governing Documents there is a pecking order.

a. **Between Documents.** In the event of a conflict between the Governing Documents and subject to the exception below, the hierarchy of authority is as follows: the Plat (highest), this Declaration, Articles of Association (certificate of formation), Bylaws, Rules, and (lowest) policies, procedures, and guidelines.

b. **Within Declaration.** In the event of a conflict within this Declaration, Appendix B has the highest authority, followed by Appendix C, and lastly by the main body of this Declaration. In the event of a conflict between this Declaration and a subsequent amendment, the amendment controls for the purposes of the amendment. In the event of a conflict between this Declaration and a supplement, the supplement controls for the purposes of the supplement.

c. **Exception.** If a law that is specifically applicable to property owners associations, such as Prop. Code Chapter 202 or 209, authorizes certain actions or the adoption

of certain policies or procedures, the Association may act or adopt pursuant to applicable law even if the act or adoption appears to be inconsistent with an otherwise superior Governing Document.

Section 18.2. Compliance. The owners hereby covenant and agree that the administration of the Association will be in accordance with the provisions of the Governing Documents and applicable laws, as same may be amended from time to time, of any public or quasi-public entity having jurisdiction over the Association or Property. Users of this Declaration and the other Governing Documents should periodically review statutes and court rulings that may modify or nullify a provision or its enforcement, or may create rights or duties not anticipated by a Governing Document.

Section 18.3. Change of Applicable Law. This Section applies to a provision of a Governing Document that is modified, rendered void, or becomes obsolete because of a change of applicable law. If the board of directors determines that the significance of the provision that is changed by operation of law should be brought to the attention of owners and the public, the board of directors, without a vote of the owners, may issue a Notice of Change that references the provision of a Governing Document and how it is affected by applicable law. The Notice may be recorded in the Real Property Records of Wise County, Texas, and does not constitute an amendment of the Governing Document. If such a Notice is issued, the Association will notify owners of its existence and will make it available to owners as a record of the Association. This provision may not be construed to give the board unilateral amendment powers, nor to prevent an amendment of a Governing Document to achieve the same purpose.

Section 18.4. Notice. Any demand or written notice required or permitted by a Governing Document may be sent by electronic, ordinary, or certified mail, postage prepaid, or by any other method or combination of methods permitted or required by applicable law. If mailed, the notice is deemed delivered when deposited in the U.S. mail addressed to the member at the address shown on the Association's records. If transmitted by fax or email, the notice is deemed delivered on successful transmission of the facsimile or electronic correspondence. The notice must be sent to the party's last known address as it appears on the records of the Association at the time of transmission. If an owner fails to give the Association an effective address, the notice may be sent to the address of the owner's lot. If the Association properly transmits the notice, the owner is deemed to have been given notice whether or not he actually receives it.

Section 18.5. Changing Technology. The Governing Documents are drafted at the end of an era that uses ink on paper to communicate, to give notice, and to memorialize decisions. The next era of communications may be paperless, relying on electronic communications for many activities that are customarily papered on the date of this Declaration. As technology changes, the terms of the Governing Documents that pertain to communications, notices, and documentation of decisions may be interpreted and applied in ways that are consistent with and customary for the then-current technology for standard business practices, without necessity of amending the Governing Document.

Section 18.6. Liberal Construction. The terms and provisions of each Governing Document are to be liberally construed to give effect to the purposes and intent of the Governing Document. All doubts regarding a provision in any Governing Document or applicable law, including restrictions on the use or alienability of property, will be resolved in the follow order of preferences: first to give effect to Declarant's intent to protect Declarant's interests in the Property, second to give effect to Declarant's intent to direct the Build-Out and Sell-Out of the Property, third to give effect to Declarant's intent to control governance of the Association for the maximum permitted period, then in favor of the operation

of the Association and its enforcement of the Governing Documents for the benefit of owners collectively, and finally to protect the rights of individual owners, regardless which party seeks enforcement.

Section 18.7. Severability. Invalidation of any provision of this Declaration by judgment or court order does not affect any other provision, which remains in full force and effect. The effect of a general statement is not limited by the enumeration of specific matters similar to the general.

Section 18.8. Captions. In all Governing Documents, the captions of articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer. Boxed notices are inserted to alert the reader to certain provisions and are not to be construed as defining or modifying the text.

Section 18.9. Interpretation. Whenever used in the Governing Documents, unless the context provides otherwise, a reference to a gender includes all genders. Similarly, a reference to the singular includes the plural, the plural the singular, where the same would be appropriate.

Section 18.10. Duration. Unless terminated or amended by owners as permitted herein, the provisions of this Declaration run with and bind the Property, and will remain in effect perpetually to the extent permitted by law.

Section 18.11. Appendixes. The following appendixes are attached to this Declaration and incorporated herein by reference:

ARTICLE XIV
RENTAL PROPERTIES

Section 19.1. Prohibition on Rentals for Less than 6 Months. No Owner may Lease their Property for a term of less than six (6) consecutive months; provided, however, a Lease converting to a month-to-month term after a six (6) consecutive month term is permitted as long as such carry over to a month-to-month term does not exceed six (6) months in the aggregate (i.e., the Lease shall need to be renewed for at least six (6) months after a maximum of six (6) months of carry over on a month-to-month basis). Daily, weekend, weekly and monthly rentals less than six (6) consecutive months are prohibited. No subleasing is allowed. An owner that violates this restrictive covenant shall be subject to a fine of $200.00 for each day of the violation.

Section 19.2. Prohibition on Rentals to Sex Offenders. No Owner may Lease their Property to a Tenant or occupant that is a Registered Sex Offender. For purposes of this provision, a "Registered Sex Offender" is a (y) person who is registered as a Level 3 (High Risk) or Level 2 (Moderate Risk) sex offender pursuant to Chapter 62 of the Texas Code of Criminal Procedure (Sex Offender Registration Program as it now exists or as it may be amended in the future), or pursuant to any other law of the State of Texas, or any local municipal or county ordinance, or pursuant to any other state or federal law or regulation and (z) person who is required to register as a sex offender and who is required to have a risk assessment but who has not been assigned a risk assessment level by the applicable authority or for whom such a risk assessment level is not yet available to the public via the applicable registry program. An owner that violates this restrictive covenant shall be subject to a fine of $200.00 for each day of the violation.

Section 19.3. Prohibition on Rental of Less than 100% of the Property. If a property is leased, 100% of the property must be leased. No owner may lease out a garage apartment, bedroom, or less than

100% of their property. If a property is leased, it must be leased in full.

A – Description of Subject Land
B – Declarant's Rights & Reservations for Build-Out & Sell-Out
C – Declarant's Rights & Reservations for Association Governance
D – Notice of Possible Oil & Gas Activity Affecting the Subdivision

SIGNED AND ACKNOWLEDGED

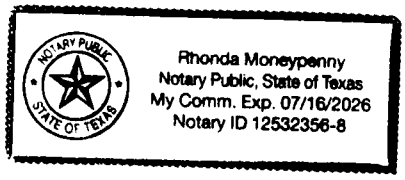
EXECUTED this 23, day of January, 2026

KBE Management Company Series 8

By: _____
Kyle Erwin, President

STATE OF TEXAS § COUNTY OF Wise

This instrument was acknowledged before me on the 23, day of January, 2026, by Kyle Erwin, President and authorized representative of KBE Management Company Series 8, on behalf of said corporation.



Rhonda Moneypenny
Notary Public in and for the State of Texas

After Recording, Return to:
Manning & Meyers, Attorneys at Law
4340 N. Central Expressway, Suite 200
Dallas, TX 75206

Appendix A

Description of Subject Land

WHEREAS, KBE MANAGEMENT SERIES 8 is the owner of a 65.150 acre tract of land in Blocks 88, 107 and 110 of the Van Zandt County School Land Survey, Abstract No. 1182, Patent No. 720, Volume 12, dated March 13, 1857, Wise County, Texas and being a portion of that certain tract of land as described in deed to KBE MANAGEMENT SERIES 8 as recorded in Instrument No. 202509974 Official Records of Wise County, Texas being more particularly described as follows:

BEGINNING at a 1/2" iron rod found with a cap at the southeast corner of Lot 27, Block B of Lola Creek Ranch, Phase 1 as recorded in Cabinet F, Slide 10 of the Plat Records of Wise County, Texas and being in the south line of said Phase 1 and by plat call the southwest corner of Lot 28 of said Block B and also being by deed call the northwest corner of that certain tract of land as described in deed to Richard Brown as recorded in Volume 1533, Page 190 Official Records of Wise County, Texas. Said 1/2" iron rod found being called the POINT OF BEGINNING and having a Texas Coordinate System of 1983, North Central ZONE (4202), coordinate of N: 7077598.70, E: 2243848.83 feet, for reference.

THENCE S 85°41'50" E along said Phase 1 a distance of 164.97 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap at the point of curvature a curve to the left having a Radius of 80.00 feet, a Central Angle of 97°44'53", a Chord Bearing of S 28°04'22" E and a Chord Distance of 120.52 feet;

THENCE along said curve in a southeasterly direction a distance of 136.48 feet to a 1/2" iron rod found with a cap;

THENCE N 78°59'31" E a distance of 60.03 feet to a 1/2" iron rod found with a cap at the Point of Curvature of a curve to the right having a Radius of 42.00 feet, a Central Angle of 90°00'00", a Chord Bearing of N 36°01'45" E and a Chord
Distance of 59.40 feet;

THENCE along said curve in a northeasterly direction a distance of 65.97 feet to a 1/2" iron rod found with a cap;

THENCE N 81°01'45" E a distance of 56.15 feet to a 1/2" iron rod found with a "TQ Burks #5509" cap at the Point of
Curvature of a curve to the right having a Radius of 303.00 feet, a Central Angle of 29°55'44", a Chord Bearing of
S 84°00'23" E and a Chord Distance of 156.48 feet;

THENCE along said curve in a southeasterly direction a distance of 158.27 feet to a 1/2" iron rod found with a cap at the Point of Curvature of a curve to the left having a Radius of 1,343.75 feet, a Central Angle of 12°48'55", a Chord Bearing of S 75°28'23" E and a Chord Distance of 299.93 feet;

THENCE along said curve in a southeasterly direction a distance of 303.55 feet to a 1/2" iron rod found with a cap;

THENCE S 06°59'41" W a distance of 70.23 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap;

THENCE S 83°00'18" E a distance of 60.00 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap;

THENCE N 06°59'42" E a distance of 70.43 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap at the Point of
Curvature of a curve to the left having a Radius of 1,340.00 feet, a Central Angle of 10°29'40", a Chord Bearing of
N 89°42'24" E and a Chord Distance of 245.10 feet;

THENCE along said curve in an easterly direction a distance of 245.44 feet to a 1/2" iron rod set with a cap;

THENCE S 04°54"44" E a distance of 250.00 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap;

THENCE N 85°02'46" E a distance of 535.51 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap;

THENCE N 00°50'59" W a distance of 60.30 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap;

THENCE S 85°05'45" E a distance of 60.30 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap;

THENCE S 00°50'59" E a distance of 60.30 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap;

THENCE N 89°09'01" E a distance of 400.00 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap in the west line of that certain tract of land described in deed to Jana Clark as recorded in Volume 1217, Page 679 O.R.W.C.T.;

THENCE S 00°50'59" E along said Clark tract and passing at 307.71 an "X" found cut in the concrete at the southwest
corner and passing at 754.49 feet a fence post for a corner at the southwest corner of that certain tract of land as
described in deed to Russell Heise as recorded in Volume 16, Page 364 and continuing in all a distance of 1,224.52 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap in the west line of that certain tract of land as described in deed to Thomas and Rhonda Tackett as recorded in Volume 800, Page 221 O.R.W.C.T. and also being the northeast corner of that certain tract of land as described in deed to KBE Management Series 1 as recorded in Document #202505818 O.R.W.C.T.;

THENCE S 89°11'19" W along the north line of said KBE Management Series 1 tract a distance of 872.06 feet to a 4" fence post;

THENCE S 00°51'23" E along the west side of said KBE Management Series 1 tract a distance of 21.96 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap;

THENCE S 88°52'33" W a distance of 582.81 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap;

THENCE S 01°07'27" E a distance of 559.72 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap in the north line of
said Hwy 114;

THENCE S 88°51'06" W along said right-of-way a distance of 79.88 feet to a 1/2" iron rod set with a "TQ Burks #5509"
cap;

THENCE N 01°07'32" W leaving said right-of-way a distance of 142.08 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap at the Point of Curvature of a curve to the right having a Radius of 68.00 feet, a Central Angle of 36°57'26", a Chord Bearing of N 17°21'16" E and a Chord Distance of 43.11feet;

THENCE along said curve in a northeasterly direction a distance of 43.86 feet to a 1/2" iron rod set with a cap at the Point of Reverse Curvature of a curve to the left having a Radius of 32.00 feet, a Central Angle of 30°25'10", a Chord Bearing of N 20°37'23" E and a Chord Distance of 16.79 feet;

THENCE along said curve in a northerly direction a distance of 16.99 feet to a 1/2" iron rod set with a cap;

THENCE N 01°07'27" W a distance of 361.20 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap;

THENCE S 88°52'33" W a distance of 599.11 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap in the east line of that certain tract of land as described in deed to Darrell and Jacklyn Martin as recorded in Instrument No. 201710856
O.R.W.C.T.;

THENCE N 01°00'04" W along said Martin tract a distance of 93.94 feet to a 4" post for a corner;

THENCE N 34°36'37" E along said Martin tract a distance of 294.08 feet to a 4" post for a corner;

THENCE N 08°53'52" W along said Martin tract a distance of 239.94 feet to a 4" post for a corner;

THENCE N 09°31'08" W along said Martin tract a distance of 120.82 feet to a 4" post for a corner and said point being by deed call the southeast corner of said Brown tract;

THENCE N 08°18'36" W along said Brown tract a distance of 29.20 feet to a 4" post for a corner;

THENCE N 08°15'59" W along said Brown tract a distance of 236.52 feet to a 4" post for a corner;

THENCE N 09°04'01" W along said Brown tract a distance of 689.39 feet to the Point of Beginning and containing in all 2,837,950 square feet or 65.150 acres of land.
And designated herein as Lots 2-13, Block A, Lots 2-26, Block B, and Lots 1-6, Block C of Lola Creek Ranch, Phase 2, a subdivision to Wise County, Texas, and whose name is subscribed hereto, hereby dedicate to the use of the public forever all streets, alleys, parks, water courses, drains, easements, rights-of-way and public places thereon shown for the purpose and consideration therein expressed.

Appendix B

Declarant's Rights & Reservations for Build-Out & Sell-Out

B.1 General Provisions. Declarant intends for this Declaration to be perpetual and understands that provisions that are warranted for the complete and orderly development, expansion, Build-Out, and Sell-Out of the Property will eventually become obsolete. As a courtesy to future users of the Declaration, who may be frustrated by then-obsolete terms, most of the provisions relating to the roles of Declarant and Builders (if any) are compiled in this Appendix and Appendix C. **The terms and provisions of this Appendix are superior to the terms and provisions of the Bylaws, Articles, and the main body of the Declaration.**

B.1.1 General Reservation & Construction. Declarant hereby reserves exclusively unto itself and its successors, assigns, and designees, the rights and reservations contained in this Appendix. No other provision in a Governing Document may be construed to prevent or interfere with Declarant's exercise of its rights and reservations. Nor many any mortgagee, other owner, or the Association, prevent or interfere with Declarant's exercise of its rights and reservations. The terms and provisions of this Appendix must be construed liberally to give effect to Declarant's intent to ensure the complete and orderly development, expansion, Build-Out, and Sell-Out of the Property, which is ultimately for the benefit and protection of homeowners and mortgagees, as well as to protect the interests and investments of Declarant and Builders (if any), and Declarant's reputation as a community developer.

B.1.2 Ownership not Required. This Appendix intends for Declarant's rights and reservations to be extant until certain statuses are attained, such as Sell-Out or the end of the Development Period, whether or not Declarant owns any part of the Property or the Additional Land. In other words, Declarant need not be an owner to exercise the rights and reservations of Declarant. If the laws of Texas are amended or interpreted retroactively to predicate all or any of Declarant's rights on an interest in real property subject to the Declaration, for the purpose of satisfying such a requirement, Declarant hereby reserves an independent right to acquire or reacquire real property already subject to the Declaration, or to subject additional real property to this Declaration by means of a supplemental declaration.

B.1.3 Statutory Reservation. Declarant hereby reserves for itself each and every right, reservation, privilege, and exception available or permissible under applicable law for declarants and developers of residential subdivisions, if and to the full extent that such right, privilege, or exception is beneficial to or protective of Declarant or Builders. If the benefit or protection of applicable law is predicated on an express provision being in this Declaration or other Governing Document, such provision is hereby incorporated by reference unless Declarant executes an instrument to disavow such benefit or protection.

B.1.4 Amendment. An amendment, restatement, supplement, or termination of this Appendix or any of its provisions is void and unenforceable without Declarant's prior written approval of the instrument, as evidenced by Declarant's acknowledged signature on the instrument that is publicly recorded.

B.1.5 Reserved Periods. This Appendix creates a number of periods of time for the exercise of certain reserved rights, such as Development Period, Expansion Period, Build-Out, and Sell-Out. Each reservation period is independent of the others. Each reservation period is for a term of years or until a stated status is attained, and does not require that Declarant own a lot or any other land. No act, statement, or omission by the Association, a Builder, or any other party

may effect a change or termination of any reservation period. Declarant, however, may unilaterally change any reservation period by amending this Appendix. To document the end of a reservation period, Declarant may (but is not required to) execute and publicly record a notice of termination of the period.

B.2 Definitions. Words and phrases defined in Article 1 of the Declaration and in Appendix C have the same meanings when used in this Appendix. As used in this Appendix and elsewhere in the Governing Documents, the following words and phrases have the following specified meanings, subject to Declarant's right to amend or supplement this Section:

B.2.1 "**Additional Land**" means real property which may be subjected to this Declaration by Declarant and thereby included within the meaning of "the Property," being real property: (1) any portion of which is contiguous with, adjacent to, or within 1,000 feet of any portion of the real property that is subject to this Declaration, (2) any portion of which is separated by a street, public right-of-way, public land, or utility-owned land or easement from any portion of the real property that is subject to this Declaration, (3) in an addition or subdivision platted as a phase or section of Lola Creek Ranch Homeowners Association, Inc., (4) in an addition or subdivision for which the plat was approved by local government on the condition that the subdivision would be served by the Association or have access to the common areas of Lola Creek Ranch Homeowners Association, Inc., or (5) located in a planned development district or other special district created or approved by local government for the property subject to this Declaration.

B.2.2 "**Builder**" means a person or entity which owns or contracts to purchase a vacant lot for the purpose of constructing or completing a new dwelling for speculative sale or pursuant to a construction contract with a prospective owner. As used in this Declaration, Builder does not refer to Declarant or to a home building or home marketing company that is an affiliate of Declarant.

B.2.3 "**Build-Out**" is the status that the Property attains when the Property is fully expanded by the Additional Land, fully platted, fully developed, and every lot that is capable of being Improved has been Improved with a completed dwelling and customary appurtenances, at which time the Property will be "Built-Out". As used in this definition, "fully" and "every" means 100 percent.

B.2.4 "**Development Period**" means the period of time that runs continuously from the date this Declaration is recorded, during which Declarant reserves the right to facilitate the platting, expansion, development, construction, and marketing of the Property as enlarged by the Additional Land, and the right to direct the size, shape, and composition of the Property as enlarged by the Additional Land, pursuant to the rights and reservations contained in this Declaration, particularly in this Appendix and Appendix C, to the full extent permitted by applicable law. **Declarant hereby states the length of the reserved Development Period as 25 years, and reserves the right to increase or decrease the length by amendment of this Declaration.** The Development Period is for a term of years and does not require that Declarant own land or lots in the Property or in the Additional Land. If applicable law requires an event of termination as an alternative to a stated number of years, the Development Period runs continuously from the date this Declaration is recorded until three years after the date on which every lot that may be created in the Property as enlarged by the Additional Land is (1) made subject to this Declaration, (2) improved with a completed dwelling, and (3) conveyed to an owner other than a Builder, Declarant, or their respective affiliates.

B.2.5 "**Expansion Period**" means the 25-year period, beginning on the date this Declaration is recorded, during which Declarant has unilateral rights that may be exercised from

time to time (1) to subject Additional Land, in whole or in part, to this Declaration and to the jurisdiction of the Association by recording a supplemental declaration, {2) to expand the size of the Property by annexation, phasing, merger, or consolidation, (3) to increase the number of lots in the Property by platting or replatting a portion thereof, and (4) to change the stated maximum number of lots that may become subject to this Declaration.

B.2.6 "**Sell-Out**" is the status that the Property attains when the Property, after having been enlarged by the Additional Land, is Built-Out and every home is occupied or owned by a person other than a Builder, Declarant, or their respective affiliates. Until Sell-Out, Builders and Declarant have protective rights established by this Declaration to market vacant lots and new homes in the Property. Sell-Out will be deemed to have occurred five years after Build-Out, If it has not occurred prior to that time. No act, statement, or omission by the Association, a Builder, or any other party may effect the attainment of "Sell-Out" before Build-Out.

B.2.7 **"Unilaterally"** means that Declarant may take the authorized action without the consent, approval, vote, or joinder of any other person, such as owners, mortgagees, Builders, and the Association. Certain provisions in this Appendix and elsewhere in the Governing Documents authorize Declarant to act unilaterally. Unilateral action by Declarant is favored for purposes of efficiency and to protect the interests of Declarant.

B.3 **Land Use Rights & Reservations.** Declarant reserves the following rights, reservations, and easements, exercisable at Declarant's sole discretion, from time to time, and at **any time prior to the later of Build-Out or the end of the Development Period, whichever event is last to occur** (unless a different period is specified), without requiring that Declarant own land described in Appendix A or in any supplemental declaration at the time or times Declarant exercises its right or reservation.

B.3.1 **Platting & Replatting.** Any unplatted land subject to this Declaration may be platted in whole or in part, and in phases. Additionally, any platted portion of the Property may be replatted, in whole or in part, for any reason, such as to change lot boundaries, to increase or decrease the number of lots in the Property, to change land use, to convert residential lots into common area and common area into residential lots, to impose or remove easements, and to effect any other land use which, in the sole discretion of Declarant, is conducive to development of Additional Land or Build-Out and Sell-Out of the Property.

B.3.2 **Expansion.** Whether or not expansion is anticipated by the original development plan for the Property, Declarant reserves the unilateral right (not duty) to make additional real property subject to this Declaration and to the jurisdiction of the Association. During the Expansion Period, Declarant may - but is not required to - subject any or all of the Additional Land to this Declaration in one or more installments by recording a supplemental declaration in the Real Property Records of Wise County, Texas. The supplemental declaration must include a description of the additional real property or a reference to the recorded plat that describes the additional real property. If any portion of the Additional Land, such as a platted lot, is conveyed under color of being subject to the Declaration, before the required supplemental declaration has been publicly recorded, Declarant may remedy the omission in the public record by recording the instrument required by this Subsection with an effective date that is prior to the date of the first conveyance in the Additional Land. "Under color of being subject to the Declaration" means that a combination of circumstances would cause a reasonable person to presume that the conveyed property is - in fact - subject to this Declaration. Unless this Declaration or the supplemental declaration provides otherwise, real property automatically becomes subject to the jurisdiction of the Association when it becomes subject to this Declaration.

B.3.3 **Reinstated Rights, if Necessary.** In case events and circumstances, applicable law, or a Governing Document are interpreted to limit or terminate Declarant's rights and reservations

prior to their maximum durations, Declarant hereby **DECLARES** that all rights and reservations of Declarant for Build-Out and Sell-Out are in effect or reinstated anew for every unplatted part of the Property that is platted and every piece of Additional Land that is made subject to this Declaration.

B.3.4 **Withdrawal.** Until Build-Out, Declarant may withdraw real property from the Property and the effect of this Declaration (1) if the owner of the withdrawn property consents to the withdrawal, and (2) if the withdrawal does not significantly and detrimentally change the overall appearance, character, operation, or use of the Property.

B.3.5 **Re-Acquired Interest. if Necessary.** If applicable law requires that Declarant own an interest in the Property as a condition of exercising the rights reserved by Declarant in this Declaration, Declarant hereby reserves the right to acquire or re-acquire the required interest.

B.3.6 **Neighborhoods.** Declarant may impose additional or different restrictions on a "neighborhood" within the Property, which may be subject to an additional "neighborhood assessment," and which may have exdusive use of "neighborhood common areas." If a portion of the Property were gated, for example, the gated portion could be a "neighborhood" within the Property, with the private street as its "neighborhood common area."

B.3.7 **Additional Easements & Restrictions.** Until Sell-Out, Declarant reserves a blanket easement and right over the Property to burden the Property, or any part or parts thereof, with additional covenants, conditions, restrictions, easements, licenses, and leases as may be necessary or desirable for the orderly or proper development, operation, use, enjoyment, and maintenance of the Property, the Additional Land, or any adjacent property, or to facilitate access to or through the Property, the Additional Land, or any adjacent property. Declarant may evidence one or more additional covenants, conditions, restrictions, easements, licenses, or leases by recording an instrument in the Real Property Records of Wise County, Texas, executed in the name of Declarant or in the name of the Association, without the approval or joinder of any other party, including, but not limited to, the Association.

B.3.8 **Utility Easements.** Until Build-Out, Declarant may grant permits, licenses, and easements over, in, on, under, and through the Property for utilities (as described in the Utilities Easement Section above), roads, and other purposes necessary for the proper development and operation of the Property and the Additional Land. Declarant hereby reserves an easement across every utility, drainage, access, fire lane, or other easement shown on a recorded plat (the "platted easements") for the installation, operation maintenance, repair or removal of a utility serving any portion of the Property or the Additional Land, together with a full right of ingress and egress at all times over the burdened lot for the stated purposes, and the right to remove any obstruction that interferes with the use or exercise of the easement. Declarant reserves the right to make changes in and additions to the easements on common areas and vacant lots to more efficiently or economically install utilities or other improvements. To exercise this right on a lot that is not owned by Declarant, Declarant must have the prior consent of the lot owner, which may not be unreasonably withheld. Declarant may assign and convey the easements and easement rights reserved by this Section, in whole or in part, to one or more public or private utilities, the Association, a public or quasi-public entity, or any other person.

B.3.9 **Utility Contracts.** Declarant, in its name or in the name of the Association, may enter into contracts for utility equipment and services for all or portions of the Property, including bulk rate service agreements. Such contract may provide for installation, operation, management, maintenance, and upgrades or modifications to the utility as Declarant determines appropriate. After the Declarant Control Period, Declarant's right to contract for utilities is limited to vacant lots. Until Build-Out, Declarant must approve any contract for utility service to a vacant lot.

B.3.10 **Completion.** Until Sell-Out, Declarant has (1) the right to complete or make improvements indicated on the plat; (2) the right to sell or lease any lot owned by Declarant; and (3) an easement and right to erect, construct, and maintain on and in lots owned or leased by Declarant and the common area, whatever Declarant determines to be necessary or advisable in connection with the construction, completion, management, maintenance, leasing, and marketing of the Property, including, without limitation, parking areas, temporary buildings, temporary fencing, portable toilets, storage areas, dumpsters, trailers, and commercial vehicles of every type.

B.3.11 **Easement to Inspect & Right to Correct.** For five years after Build-Out, Declarant reserves for itself and Builders, and their respective architects, engineers, other design professionals, materials manufacturer, and general contractors, the right, but not the duty, to inspect, monitor, test, redesign, correct, relocate, and replace any structure, improvement, material, or condition that may exist on any portion of the Property, including the lots, and a perpetual nonexclusive easement of access throughout the Property to the extent reasonably necessary to exercise this right. Declarant or Builder, as applicable, will promptly repair, at its sole expense, any damage resulting from the exercise of this right. By way of illustration but not limitation, relocation of a screening wall located on a lot may be warranted by a change of circumstance, Imprecise siting of the original wall, or desire to comply more fully with public codes and ordinances. This Section may not be construed to create a duty for Declarant, a Builder, or the Association. This Subsection survives Sell-Out if Sell-Out occurs within five years after Build-Out.

B.3.12 **Termination.** Declarant may voluntarily and affirmatively terminate the Development Period at any earlier time by signing and acknowledging a notice of voluntary termination that is recorded in the Real Property Records of Wise County, Texas. A writing by Declarant may not be construed to be a notice of termination unless that purpose is clearly stated in the writing.

B.4 **Rights & Reservations to Make Changes**. Until Build-Out, Declarant reserves the following exclusive rights which Declarant may exercise unilaterally from time to time when circumstances warrant.

B.4.1 **Changes in Development Plan.** Declarant may modify the initial development plan to respond to perceived or actual changes and opportunities in the marketplace. Subject to approval by (1) a public or quasi-public entity, if applicable, and (2) the owner of the land or lots to which the change would directly apply (if other than Declarant), Declarant may (a) change the sizes, dimensions, and configurations of lots and streets; (b) change the minimum or maximum dwelling size; (c) change the building setback requirements; and (d) eliminate or modify any other feature of the Property.

B.4.2 **Change of Architectural Styles.** Declarant reserves the right to periodically change the types of architectural styles, building materials, and elevations that are eligible for architectural approval.

B.4.3 **Change of Construction Specifications.** Declarant has the right to establish specifications for the construction of all initial improvements in the Property, to establish different specifications for each category of lots, or for each phase or neighborhood within the Property, and to grant variances or waivers for certain lots, phases, or neighborhoods within the Property.

B.4.4 **Change of Community Features.** The initial plans for use and development of the Property may change in response to a number of circumstances, influences, and opportunities that may not be apparent or applicable at the inception of the development. An owner who

acquires a lot while the Property is being developed is hereby given notice that a common area improvement or community feature that is not installed at the time an owner contracts is subject to change. Representations given to a prospective purchaser about a proposed community feature are based on a development plan that makes assumptions that are subject to change.

B.5 **Architectural Covenants for Vacant Lots.** Until Build-Out, Declarant has the absolute unilateral right of architectural control over vacant lots and lots owned by Declarant or Builders, and is the exclusive Architectural Reviewer for vacant lots and lots owned by Declarant or Builders. Neither the Association, the board of directors, the ARC, nor any other committee appointed by the Association or board (no matter how the committee ls named) may involve itself with the approval of new homes and related improvements on vacant lots.

B.5.1 **Declarant's Rights Reserved.** Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees that Declarant has a substantial interest in ensuring that the improvements within the Property enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market its property or the ability of Declarant or Builders to sell homes in the Property. Accordingly, each owner agrees that - during the Development Period - no improvements will be started or progressed on owner's lot without the prior written approval of Declarant, which approval may be granted or withheld at Declarant's sole discretion. In reviewing and acting on an application for approval, Declarant may act solely in its self-interest and owes no duty to any other person or any organization. Declarant may designate one or more persons from time to time to act on its behalf in reviewing and responding to applications.

B.5.2 **Delegation by Declarant.** Declarant may from time to time, but is not obligated to, delegate all or a portion of its rights and authority as Architectural Reviewer, subject to the unilateral rights of Declarant (1) to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (2) to veto any decision which Declarant in its sole discretion determines to be inappropriate or inadvisable for any reason.

B.5.3 **Improvements by Declarant.** Notwithstanding anything to the contrary in this Declaration or the dedicatory instruments of the Association, any improvement to a vacant lot made by Declarant or an affiliate of Declarant is deemed to have been approved by the Architectural Reviewer. If the improvement is of a nature that would require a variance or waiver by the Architectural Reviewer, such variance or waiver is deemed to have been granted.

B.5.4 **Improvements by Builder**. Without the Architectural Reviewer's prior written approval, a Builder or other person may not construct a dwelling or any appurtenant improvement on a vacant lot. An application to the Architectural Reviewer will follow the same procedures and adhere to the same time frames as required by the Declaration for submissions to the ARC for modifications on Improved lots, which procedures are hereby incorporated by reference. The Architectural Reviewer has the right but not the duty to evaluate every aspect of construction, landscaping, and property use that may adversely affect the general value or appearance of the Property. Without the Architectural Reviewer's prior written approval for a variance, improvements to a vacant lot must have the characteristics described in construction and landscape specifications provided by Declarant or, otherwise, the dedicatory instruments of the Association.

B.5.5 **Approval of Builder Plans.** If a Builder intends to construct a number of pre-designed homes in a phase of the Property, the Builder may submit the set of house plans and elevations to Declarant for approval by Declarant. Such plans may be submitted and approved prior to Builder's purchase of lots in the Property. House plans and elevations that are pre-approved by Declarant for use by Builder in a particular phase of the Property may be constructed

by Builder without re-submitting plans on a lot by lot basis as the houses are constructed, unless the actual house plan or elevation deviates substantially from the pre-approved plan and elevation. Examples of substantial deviation include (1) reversing a garage from rear entry to front entry, (2) reducing the size of the dwelling by more than 15 percent, (3) reducing the amount of masonry exterior material by more than 15 percent, (4) changing the style of the front elevation, and (5) replacing a garage with a porte cochere. Builder must apply to Declarant for approval of any substantial modifications or variations from or additions to the pre-approved plans for the Property, as well as the plot plan for each house.

B.6 **Governing Documents Rights & Reservations.** Declarant reserves the following rights and reservations, exercisable at Declarant's sole discretion, from time to time, and at any time prior to the later of Sell-Out or the end of the Development Period, whichever event occurs last (unless a different period is specified), without requiring that Declarant own land described in Appendix A or in any supplemental declaration at the time or times Declarant exercises its right or reservation.

B.6.1 **Adoption.** Declarant has the right, but not the duty, to adopt one or more Governing Documents for the Property and for the benefit of the Association, either in its capacity as Declarant, or in the name of the Association. The exercise of this right by Declarant, in its capacity as Declarant, may not be construed as an act or decision of the Association or its board.

B.6.2 **Amendment. Declarant may amend or restate this Declaration and every other Governing Document, unilaterally, for any purpose**. In addition to exercising this right on its own initiative, Declarant may exercise this right at the request of the Association to address a concern of the membership. The exercise of this right by Declarant, in its capacity as Declarant, may not be construed as an act or decision of the Association or its board. **For illustration only**, the following are examples of some of the purposes for which Declarant may amend the Governing Documents:

1) To add or withdraw real property to or from the Property.
2) To create lots, easements, and common areas within the Property.
3) To subdivide, combine, or reconfigure lots.
4) To convert lots into common areas, and common areas into lots.
5) To change the maximum number of lots that may be made subject to this Declaration.
6) To allocate the use of certain common areas to specified lots as limited common areas.
7) To change the designation of or restrictions on common areas.
8) To modify - even to increase - Declarant's rights and reservations.
9) To change any aspect of the dedicatory instruments of the Association.
10) To modify HOA Sale Fees.
11) To merge the Association with another property owners association.
12) To conform to applicable law.
13) To resolve conflicts, clarify ambiguities, and to correct misstatements, errors, or omissions.
14) To qualify the Property or the Association for mortgage underwriting, tax exemption, insurance coverage, and any public or quasi-public program or benefit.
15) To enable a reputable company to issue title insurance coverage on the lots.
16) To change the name or entity of Declarant.
17) To change the name of the addition in which the Property is located.
18) To change the name of the Association.

19) For any other purpose.

B.7 **Marketing Rights & Reservations.** Declarant reserves the following rights, reservations, and easements, exercisable at Declarant's sole discretion, from time to time, and at any time prior to Sell-Out.

B.7.1 **Promotion.** Until Sell-Out, Declarant reserves for itself an easement and right to place or install signs, banners, flags, display lighting, potted plants, exterior decorative items, seasonal decorations, temporary window treatments, and seasonal landscaping on the Property, including items and locations that are prohibited to other owners and residents, for purposes of promoting, identifying, and marketing the Property or Declarant's houses, lots, developments, or other products located outside the Property. Declarant reserves an easement and right to maintain, relocate, replace, or remove the same from time to time within the Property. Declarant also reserves the right to sponsor marketing events - such as open houses, MLS tours, and brokers parties - at the Property to promote the sale of lots. Until Sell-Out, Declarant also reserves (1) the right to authorize its agents to place signs and promotional materials on the Property to market property owned by Declarant, (2) the right to permit Builders to place signs and promotional materials on the Property, and (3) the right to exempt Builders from the sign restriction in this Declaration.

B.7.2 **Offices.** Until Sell-Out, Declarant reserves for itself the right to use dwellings owned or leased by Declarant as models, storage areas, and offices for the marketing, management, maintenance, customer service, construction, and leasing of the Property or Declarant's developments or other products located outside the Property. Also, Declarant reserves for itself the easement and right to make structural changes and alterations on and to lots and dwellings used by Declarant as models, storage areas, and offices, as may be necessary to adapt them to the uses permitted herein.

B.7.3 **Access.** Until Sell-Out, Declarant has an easement and right of ingress and egress in and through the Property for purposes of constructing, maintaining, managing, and marketing the Property and the Additional Land, and for discharging Declarant's obligations under this Declaration.

B.7.4 **Marketing Other Locations.** This Declaration grants to Declarant a number of significant rights to market the Property. Declarant hereby reserves for itself and its affiliates the right to use each and every such right and privilege for the additional purposes of promoting, identifying, and marketing off-site developments of Declarant or its affiliates. After Sell-Out, if Declarant desires to use or to authorize the use of one or more model homes in the Property to market homes to be built in other locations, Declarant may do so for up to three years after Sell-Out. This Subsection survives Sell-Out.

B.7.5 **Model Home Notice.** In connection with its development and marketing of the Property, Declarant may create or authorize one or more marketing centers in the Property, with homes that serve as models of what may be constructed in the Property. The designation of a lot as a model is entirely within the discretion of Declarant. The use of a model home does not require that the model be reproduced in the Property. The sizes, styles, appearances, materials, and construction specifications of model homes may differ significantly from other homes in the immediate vicinity. A model may be approved for construction in one part of the Property, although it markets homes in other parts of the Property. A model home may be substantially remodeled from time to time, or may be replaced by a different home on the same lot. All exterior aspects of a model home are deemed to have been approved by the Architectural Reviewer, with variances if necessary to allow the home to remain in a portion of the Property with different construction specifications. Neither the Association nor the ARC may enact rules, guidelines, or

specifications that - by intent or effect - are disproportionally adverse to a home that is or was used as a model. This Section may not be amended without the prior written consent of Declarant and the owner of any model home lot that would be affected by the amendment.

B.8 **Relationship with Builders.** Declarant, in its own name or through its affiliates, intends to construct dwellings on the lots in connection with the sale of the lots. However, Declarant may, without notice, sell some or all of the lots to one or more Builders to improve the lots with dwellings to be sold and occupied. This Section applies in the event Declarant sells lots to Builders. Until Sell-Out, Declarant may authorize Builders to exercise any or all of the promotional rights reservations, and easements that Declarant reserves for itself in this Declaration. Without the prior written approval of Declarant, a Builder may not market its off-site products from its offices, models, or signs in the Property.

B.9 **Successor Declarant.** One role of Declarant may be to buffer the process of building-out and marketing the Property from the possible desire of the Association and homeowners to Impose their views on Expansion, Build-Out, and Sell-Out. The intent of this Section is for the role of "Declarant" to be extant through Build-Out until Sell-Out, whether or not Declarant is the builder and seller of new homes in the Property, whether or not Declarant owns a lot. The rights, reservations, and roles of Declarant under this Declaration may be transferred, in whole or in part, pursuant to this Section. Unless the designation of Successor Declarant provides otherwise, a Successor Declarant has the rights of Declarant under this Section and may designate further Successor Declarants. This Section may not be construed to prevent Declarant from voluntarily designating the Association as a Successor Declarant. Absent a voluntary designation by Declarant, the Association has no basis, authority, or right to be or perform as a successor Declarant.

B.9.1 **Voluntary Designation.** Declarant may designate one or more Co-Declarants or Successor Declarants for specified designated purposes (such as architectural control over new homes) or for specified portions of the Property, or for all purposes and all of the Property. To be effective, the designation must be in writing, signed and acknowledged by Declarant and by the Co- or Successor Declarant, and recorded in the Real Property Records of Wise County, Texas. The designation instrument may subject the CO- or Successor Declarant to limitations and restrictions.

B.9.2 **Involuntary Designation.** A person who acquires substantially all of Declarant's interest in the Property by an involuntary method, such as court order, deed in lieu of foreclosure, foreclosure, or bankruptcy proceeding, may - but is not required to - designate itself, or its successor or assign, as Declarant for all purposes, or for specified purposes (such as architectural control over new homes). To be effective, the designation must be in a writing that (1) describes the involuntary circumstance, (2) is signed and acknowledged by the designee, and by the designator, if any, and (3) is recorded in the Real Property Records of Wise County, Texas. This Subsection is not invalidated by temporary interim ownership of the Property, such as by a trustee, beneficiary, or executor.

B.10 **Common Areas.** Common areas may be dedicated to the Association or to a public entity by the plat. Additionally, common areas may be conveyed to the Association or, if appropriate, to a public entity, by one or more deeds - with or without warranty of title, and with or without warranty of Improvements. At time of conveyance, common areas will be free of encumbrance, except for unpaid or accruing property taxes which are a common expense of the Association. The conveyance to the Association of platted common areas or property intended by Declarant for use as common area is a ministerial task that does not require and is not subject to acceptance by the Association or the owners. The transfer of control of the Association at the end of the Declarant Control Period is not a transfer of

common areas requiring inspection, evaluation, acceptance, or approval of common area improvements by the owners.

B.11 **Pardon our Dust.** A person who occupies a home during Build-Out is living in a construction site that may experience periodic and temporary inconveniences during the Build-Out and Sell-Out of the Property. Declarant - for itself and the Builders - apologizes in advance for these disturbances, many of which cannot be avoided. The sooner the construction work is completed, the sooner residents will be able to enjoy the community of which they are a part. Declarant hopes Build-Out occurs swiftly and with minimal disruption of residents' lives and households. Declarant thanks residents in advance for their patience and tolerance of what may be a relatively short but challenging period for the Lola Creek Ranch Homeowners Association, Inc. community.

Appendix C

Declarant's Rights & Reservations for Association Governance

C.1 **General Provisions.**

C.1.1 **Introduction.** Declarant intends the Declaration to be perpetual and understands that provisions that are warranted for Declarant's control of the Association's governing and budgetary functions will eventually become obsolete. As a courtesy to future users of the Declaration, who may be frustrated by then-obsolete terms, most of the provisions relating to Declarant's role, rights, and responsibilities towards the Association and governance of the Property are contained in this Appendix.

C.1.2 **Superiority.** The terms and provisions of this Appendix are superior to the terms and provisions of the Bylaws, the Articles, and the main body of the Declaration. Except for a few provisions which expressly survive Sell-Out, most of the terms and provisions of this Appendix will cease to apply to the Property upon Sell-Out.

C.1.3 **General Reservation & Construction.** Declarant hereby reserves exclusively unto itself and its successors, assigns, and designees, the rights and reservations contained in this Appendix. No other provision in a Governing Document may be construed to prevent or interfere with Declarant's exercise of its rights and reservations. No mortgagee, other owner, or the Association may prevent or interfere with Declarant's exercise of its rights and reservations. The terms and provisions of this Appendix must be construed liberally to give effect to Declarant's intent to control the governing and budgetary functions of the Association for the maximum period of time permitted by applicable law, which is ultimately for the benefit and protection of homeowners and mortgagees, as well as to protect the interests and investments of Declarant and Builders (if any), and Declarant's reputation as a community developer.

C.1.4 **Ownership Not Required.** This Appendix intends for Declarant's rights and reservations to be extant until certain statuses are attained, whether or not Declarant owns any part of the Property. In other words, **Declarant need not be an owner to exercise the rights and reservations of Declarant**. If the laws of Texas are amended or interpreted to predicate Declarant's rights on an interest in real property subject to the Declaration, Declarant reserves the right to acquire or re-acquire a lot, or to annex additional real property, in order to satisfy the requirement.

C.1.5 **Statutory Reservation.** Declarant hereby reserves for itself each and every right, reservation, privilege, and exception available or permissible under applicable law for declarants and developers of residential subdivisions, if and to the full extent that such right, privilege, or exception is beneficial to or protective of Declarant or Builders. If the benefit or protection of applicable law is predicated on an express provision being in this Declaration or other Governing Document, such provision is hereby incorporated by reference unless Declarant executes an instrument to disavow such benefit or protection.

C.1.6 **Amendment.** An amendment, restatement, supplement, or termination of this Appendix or any of its provisions is void and unenforceable without Declarant's prior written approval of the instrument, as evidenced by Declarant's acknowledged signature on the instrument that is publicly recorded.

C.2 **Definitions.** Words and phrases defined in Article 1 of the Declaration and in Appendix B have the same meanings when used in this Appendix. As used in this Appendix and elsewhere in the

Governing Documents, the following words and phrases have the following specified meanings, subject to Declarant's right to amend or supplement this Section:

C.2.1 **"Declarant Control Period"** means that period of time during which Declarant has the right to control the operation and management of the Association by appointing officers and directors of the Association, pursuant to the rights and reservations contained in this Appendix, to the full extent permitted by applicable law. If applicable law requires a stated term, the Declarant Control Period runs continuously from the date this Declaration is recorded until the earlier of the following events: (1) 25 years after the date on which this Declaration is publicly recorded, and (2) 120 days after 95 percent of the lots that may be created (including property subject to annexation) have been improved with dwellings and conveyed to owners other than Builders or Declarant (also referred to as "at 95 percent of Build-Out and Sell-Out"). To the fullest extent possible, the term "Declarant Control Period" as defined by this Declaration will be given effect for the purposes of this Declaration and the other Governing Documents. In event of conflict between this definition and a subsequently enacted statutory definition of "Declarant Control Period," the statutory definition controls for the limited purpose of compliance with the applicable statute.

C.2.2 **"Shortfall"** is used in this Appendix with the following terms and meanings. "Actual Shortfall" is the difference between actual and available cash in the Association's operating account having been contributed by owners other than Declarant, and the Association's actual cash outlays for operating expenses, whether budgeted or not. "Expected Shortfall" is the difference between the Association's actual cash outlays for budgeted operating expenses and the assessments payable - collectively - by owners other than Declarant, as if all of those owners paid their assessments in full and on time. "Shortfall Loan" is money paid by Declarant to the Association or for the Association's benefit to fund some or all of the difference between the actual shortfall and the expected shortfall.

C.3 **Classes of Members.** From the date this Declaration is recorded through Sell-Out, the Association may have as many as three classes of members - Homeowner Class, Homebuilder Class, and Declarant Class, as described below. Each class exists to the extent it has qualified members. On the date this Declaration is recorded, there is one class of members - Declarant Class - which continues to exist until Sell-Out. On the date of recording the first improved lot deed to an owner, the Homeowner Class comes into existence. If a Builder acquires a vacant lot, the date of recording the first vacant lot deed to a Builder establishes the Homebuilder Class. Each lot has only one membership and one class of membership at a time. Except for the Declarant Class, membership is automatic, mandatory, appurtenant to ownership of a lot, and terminates when the member is divested of his ownership interest in the lot to which it is tied and from which it may not be separated. If a lot is owned by more than one person, the co-owners share the membership and decide for themselves how it will be exercised. The board may require satisfactory evidence of transfer of ownership before a purported owner is recognized by the Association as a member. One purpose of the membership classes is to allow (but not require) Declarant to maintain membership in the Association until Sell-Out, even during periods when Declarant does not own property subject to this Declaration. References to "members of the Association" in the Governing Documents and applicable law apply to Association members in each class.

C.3.1 **Homeowner Class.** A lot owner who is not a member of another class is a Homeowner Class member of the Association, ownership of a lot being the sole qualification for membership.

C.3.2 **Homebuilder Class.** Homebuilder Class members consist of owners (other than Declarant and its affiliates) who are Builders, owners of unplatted or unimproved land in the Property, and owners of lots with never-occupied dwellings that are being offered for sale or

lease. If this class has members at Sell-Out, such as a Builder who occupies a house or who owns a house that is occupied, the Homebuilder Class membership automatically converts to Homeowner Class membership at Sell-Out. Declarant and its affiliates are not members of the Builder Class. During any period when no owner qualifies as a Builder, as defined above, the Homebuilder Class does not exist.

C.3.3 **Declarant Class.** Declarant Class members of the Association are (1) Declarant, whether or not Declarant owns land in the Property or Additional Land, and (2) any affiliate of Declarant who owns land in the Property or Additional Land. If there are co-Declarants, each co-Declarant is a member of the Declarant Class. The Declarant Class member enjoys the same membership rights as the Homeowner and Homebuilder Class members, except that Declarant's membership does not require ownership of a lot. If a Declarant Class member owns property subject to the Declaration, the member may cast votes for any lot it owns. If a Declarant Class member owns an occupied house at Sell-Out, the membership automatically converts to Homeowner Class membership for any lot with an occupied house owned by a Declarant Class member.

C.4 **Voting.** This Section pertains to voting by owners and members of the Association between the date this Declaration is recorded and Sell-Out. The vote appurtenant to each lot is indivisible. Cumulative voting is not allowed.

C.4.1 **Number of Lots for Voting Purposes.** If the Property contains unplatted tracts of land, each acre is treated as a lot for voting purposes. When unplatted tracts are platted, the number of voting lots will be automatically adjusted by the number of platted lots. Until a plat is recorded, the number of voting lots may be based on the most recent preliminary plat or unrecorded final plat. If additional property is made subject to this Declaration, the number of voting lots will be increased automatically by the number of additional lots. If the number of lots in the Property changes with final platting or replatting by Declarant or with Declarant's approval, the number of voting lots will be adjusted accordingly.

C.4.2 **Number or Weight of Votes Per Lot.** At Sell-Out, each lot will have one vote, and all votes will be uniform in weight. Prior to Sell-Out, the voting power of each lot is determined by its owner's membership class. For each lot owned by a Homeowner Class member, the vote is counted once, as one vote per lot with a weight of one. For each lot owned by a Homebuilder Class member prior to Sell-Out, the vote is counted twice or is tallied as two votes per lot, or is weighted twice that of a Homeowner Class member's vote. For each lot owned by a Declarant Class member prior to Sell-Out, the vote is counted as ten votes per lot, or is weighted ten times that of a Homeowner Class member's vote.

C.4.3 **Tallying Votes.** Prior to Sell-Out, if applicable law or a Governing Document requires consent by a percentage or share of owners, members, or total votes, the percentage or share will be determined by the percentage of share of total number or weights of votes based on membership class.

C.4.4 **Declarant Class Member. The Declarant Class membership is a voting membership, even if the Declarant Class member does not own a lot in the Property**. Prior to Sell-Out, during any period in which no lot is owned by the Declarant Class member, the Declarant Class member may cast one vote, the weight of which is one.

C.5 **Maximum Number of Lots.** To satisfy a requirement of applicable law that the Declaration state the maximum number of lots that may be created and made subject to the Declaration, Declarant hereby states that **maximum number as 275 residential lots** (the "Maximum Size"), and reserves the right to increase or reduce that number by amendment of this Declaration. This disclosure of Maximum Size

does not obligate Declarant to annex land, to create lots, or to subject lots to the Declaration, and may not be construed as any kind of representation regarding common areas. Declarant's rights that are tied to the size of the Property, such as the calculation for determining the end of the Declarant Control Period, are based on the Maximum Size stated in this Section. The Maximum Size may differ from an interim Build-Out Size which has certain practical applications, such as preparation of the "Build-Out Budget" on which regular assessments are based. Both the Build-Out Size and the Maximum Size may change from time to time during the Development Period in response to changing conditions and opportunities.

C.6 **Board Control Rights & Reservations.** Declarant hereby reserves the Declarant Control Period by which Declarant may unilaterally appoint, remove, and replace officers and directors of the Association, subject to the following conditions and provisions. Declarant's reservation and right to control the Association by appointing officers and directors is independent of Declarant's reservations and rights to control the development, expansion, Build-Out, and Sell-Out of the Property.

C.6.1 **Duration.** Declarant intends for the Declarant Control Period, as defined above, to be the maximum amount of time permitted by this Declaration and applicable law. No act, statement, or omission by the Association may effect termination of the Declarant Control Period earlier than the term stated in this Appendix. Declarant, however, may terminate the Declarant Control Period at any earlier time by signing and acknowledging a notice of voluntary termination that is recorded in the Real Property Records of Wise County, Texas.

C.6.2 **Independent Reservation.** Declarant may terminate its reserved right to appoint officers and directors of the Association without affecting any of Declarant's other rights and reservations under this Declaration or applicable law.

C.6.3 **Officers & Directors.** During the Declarant Control Period, the board may consist of 3 persons, or any larger number chosen by Declarant. During the Declarant Control Period, Declarant may appoint, remove, and replace any officer or director of the Association, none of whom need be members or owners, and each of whom is indemnified by the Association as a "Leader," subject to the following limitation. To the extent required by applicable law [TX Prop Code Sec. 209.00591], within 120 days after the conveyance of 75 percent of the lots that may be created (including property subject to annexation, if any), at least one-third of the board must be elected by owners other than Declarant. Declarant construes the applicable law to mean 120 days after 75 percent of the lots that may be created in the fully expanded development have been improved with homes and conveyed to owners other than Builders. The conveyance of vacant lots does not count toward the 75 percent requirement. Declarant's unilateral right to remove and replace officers and directors applies only to Declarant's appointees.

C.7 **Association Governance.**

C.7.1 **Annual Meetings.** During the Declarant Control Period, the board may use its discretion in setting the agenda for meetings of the Association, and is not bound by the order of business stated in the Bylaws. Annual meetings during the Declarant Control Period may be informational only. If the Association gives notice of one meeting of members during the year, the meeting will be deemed to be the annual meeting of the Association whether or not it is so designated in the notice.

C.7.2 **Board Meetings.** During the Declarant Control Period, to the extent not prohibited by applicable law, meetings of the board of directors are permitted but not required. The Bylaws provision that requires periodic board meetings becomes effective when the Declarant Control Period ends.

C.7.3 **Bylaws.** During the Declarant Control Period, the board may use its discretion in applying the provisions of the Bylaws, which - during the Declarant Control Period only - must be

construed as permissive (not mandatory), aspirational, and within the sole discretion of the board, to the extent permitted or not prohibited by applicable law.

C.7.4 **Transition Meeting.** Within 120 days after the end of the Declarant Control Period, or sooner at the Declarant's option, Declarant will call a special meeting of the members of the Association for the purpose of transferring control of the Association's governance. At the transition meeting, the owners will elect directors to the board. For the transition meeting, owners present in person or by proxy constitute a quorum. Regardless of the timing specified in the Bylaws for the annual meeting, in the year of the transition meeting, the annual meeting may be scheduled to coincide with the transition meeting to avoid the cost of conducting two membership meetings in a one-year period.

C.7.5 **Notice and Quorum.** During the Declarant Control Period, notice of each Association meeting must be given to Declarant, whether or not Declarant owns a lot in the Property. The presence of Declarant, in person or by proxy, is required to attain a quorum for any meeting of the Association during the Declarant Control Period. Declarant may waive this requirement in writing on a meeting-by-meeting basis. However, Declarant's waiver may not be assumed, deemed, or construed from circumstances, omissions, or verbal statements. A meeting of the Association called during the Declarant Control Period is not valid without Declarant's presence or a written waiver signed by Declarant prior to the start of the meeting.

C.8 **Veto Over Certain Board Decisions.** Certain decisions by the board, such as choice of management, adoption of an annual budget, and use of websites and social media, may affect the appearance and condition of the Property, the quality of life for residents, the costs of home acquisition and ownership, and marketability of homes in the Property. For itself and Builders, Declarant may have a vested interest in the way the Property is maintained and the Association managed until Sell-Out. Through Sell-Out, Declarant has the continuing unilateral right to veto, reverse, or modify decisions by the board which Declarant has reason to believe will adversely impact the Build-Out or Sell-Out of the Property. This Section applies during and after the Declarant Control Period, even if Declarant voluntarily terminates control of the Association earlier than the maximum period of Declarant control. The Association may not evade the effect of this Section by refusing to accept financial or other types of assistance from Declarant. Although this right of veto cannot be waived prior to Sell-Out, ff requested by the Association, Declarant may waive its veto on a decision-by-decision basis.

C.9 **Declarant as Ex-Officio Board Member**. Declarant hereby reserves the right to serve on the board in an ex-officio capacity when the Declarant Control Period ends, for the remainder of the Declarant Class membership. Only Declarant may appoint the person who serves as the ex-officio director, with full power to remove and replace the appointee, who serves at the pleasure of Declarant. As an ex-officio member of the board, Declarant has the same rights and privileges as do all other directors, including the right to vote. As an ex-officio director, Declarant is not subject to recall, removal, or term limits.

C.10 **Advisory & Architectural Committees.** During the Declarant Control Period, the board may appoint any number of committees pursuant to the authority and procedures stated in the Bylaws. This Section pertains to two committees that may be of particular interest during the Declarant Control Period. Although committee appointments are made by the board, the board may invite nominations from owners, or may provide owners with a straw poll opportunity to recommend candidates.

C.10.1 **Advisory Committees.** During the Declarant Control Period, the board may appoint one or more committees comprised of owners or residents to assist the board in an advisory capacity by contributing the perspectives of residents and owners. The committee may

be referred to as an "advisory committee," "advisory board," "shadow board," or by any other name that is commonly used by property owners associations. The board may adopt a policy of delegating to the Association's manager the responsibility for appointing and working with such committees. The policy may provide that all duties of the board under the Bylaws article titled "Committees" will be construed to mean "the board or the manager pursuant to a policy adopted by the board."

C.10.2 **Architectural Review Committee.** During the Declarant Control Period, the board appoints the ARC, which may consist of (1) Declarant only as a "committee of one," (2) principals or employees of Declarant, (3) independent design professionals, such as architects and engineers, (4) one or more Builders, (5) owners appointed by Declarant, (6) owners recommended by owners other than Declarant, or (7) any combination of the forgoing. At all times, the chair and members of the ARC serve at the pleasure of the board, which may remove and replace appointees. Declarant may, from time to time, and solely at Declarant's discretion, appoint an ARC comprised solely of owners other than Declarant and Builders. Decisions by the ARC are at all times subject to review and veto by the board. **The ARC has no authority over vacant lots and no authority over lots owned by Declarant or Builders. No authority granted to the ARC, even by the board, may ever be construed to give the ARC jurisdiction over new homes and related improvements on vacant lots**.

C.11 **Financial Rights & Reservations.** Declarant hereby reserves the following financial rights, reservations, and duties regarding the Association's budget and financial functions. The financial rights, reservations, and duties are independent of Declarant's reservation and right to control the appointment of officers and directors, and Declarant's reservation and right to control the development, build-out, and sell-out of improvements in the Property.

C.11.1 **Annual Budget**. Before the first lot closing to an owner other than a Builder, Declarant or the Declarant-appointed board will approve an estimated projected annual budget for the Association on which regular assessments are based. From time to time during the Declarant Control Period, as Declarant deems appropriate, Declarant may unilaterally revise and republish the Association's annual operating budget and the corresponding rate of assessment for the lots. Such a budget adopted by Declarant for the Association does not require approval by the board. Alternately, assessment and budget changes may be adopted by the board.

C.11.1.1 **Purposes.** During the Declarant Control Period, the annual budget has three primary purposes. First, to inform homebuyers about the types and relative sizes of expenses that the Association may be expected to incur in the future when their community is Built-Out, Sold-Out, and they control their Association. Second, to yield a rate of assessment that is more affordable for the initial homebuyers than if the Association's expenses were divided among only owners of completed homes prior to Build-Out. Third, to serve as a budget snapshot that can be used in the home marketing program for a relatively long period of time during the community's development.

C.11.1.2 **No Warranty.** For itself and the Association, Declarant hereby disclaims and disavows any warranty or representation that may be attributed to the annual budget adopted during the Declarant Control Period. The annual budget is not a warranty or representation by Declarant or by the Association that the types of budgeted expenses or their relative sizes are accurate or complete. Nor is it a warranty or representation that the Property or the Association will achieve the budget's assumptions. Nor is it a warranty or representation by Declarant or the Association that the Association will annually incur or fund every category of expense that is shown on the budget, or that the relative size of an expense category will be achieved. Neither the Association nor any owner has a

right or expectation of being reimbursed by Declarant or by the Association for a budgeted line item that is not realized, or that is not realized at the projected level.

C.11.1.3 **Assumptions.** The annual budget may be based on any number of assumptions that are customary for Declarant-prepared budgets in the local marketplace, such as assumptions that (1) the Property is Built-Out, Sold-Out, and fully occupied, (2) owners of all lots subject to assessment pay assessments in full and on time, (3) the Property enjoys a level of service and maintenance that is typical for similar types of developments in the general area of the Property, and (4) no inflation or increase in the costs of goods and services from the date on which the budget is prepared. All such assumptions are presumed to be reasonable for this purpose.

C.11.2 **Declarant's Financial Responsibility.** A lot owned by Declarant or by an affiliate of Declarant is not subject to mandatory assessment by the Association and will not become subject to assessment by the Association until the date title is transferred to an owner other than Declarant or a Declarant affiliate. Because Declarant establishes the Association's budget and the rate of assessment during the Declarant Control Period, Declarant has an obligation to ensure that the Association's operating expenses are paid for that period. **During the Declarant Control Period only**, Declarant is responsible only for the Expected Shortfall. For any budget period during the Declarant Control Period in which the Actual Shortfall exceeds the Expected Shortfall, Declarant may (a) fund some or all of the difference, (b) direct the board to reduce the Association's expenses by reducing services, or (c) direct the board to fund the difference by raising the rate of assessment. **On termination of the Declarant Control Period**, Declarant ceases being responsible for shortfalls and the owner-elected board of directors will adopt a budget for the Association that is capable of being funded completely by owners without any contribution by Declarant. Under any circumstance, Declarant is not liable to the Association for more than the amount that Declarant would pay if Declarant were liable for assessments on the unsold lots in the same manner as any other owner. This may not be construed to create a per lot assessment liability for Declarant.

C.11.3 **Reserves.** The annual budget may show an annual contribution to reserves or to a contingency fund to Illustrate to homebuyers the types of expenses they may expect to fund after the Declarant Control Period. During the Declarant Control Period, a budgeted line item for reserves is not a guaranty that the Association's reserves will be funded from regular assessments or from any other source. Declarant has no duty to contribute to the Association's reserve accounts. If the Declarant-controlled Association does not collect initial reserve contributions from owners at time of purchase, after the Declarant Control Period the Association will levy a special assessment to establish initial reserve accounts, and will thereafter collect initial reserve contributions in connections with transfers of title.

C.11.4 **Commencement of Assessments.** Declarant may elect to postpone the Association's initial levy of regular assessments until a certain number of lots are sold. Prior to the first levy, Declarant is responsible for the operating expenses of the Association as they accrue.

C.11.5 **Budget Control.** During the Declarant Control Period, the right of owners to veto assessment increases or special assessments is not effective and may not be exercised.

C.11.6 **Enhancements.** Until Sell-Out, Declarant - solely at Declarant's discretion - may voluntarily provide enhancements for the Property, such as higher levels of maintenance, management, insurance, seasonal color in landscaping, and recreational personnel. If such enhancements are included in the Association's annual operating budget they must be identified as voluntary contributions by Declarant.

C.11.7 **Loans.** Nothing in this Appendix may be construed to prevent Declarant from making a loan or voluntary monetary donation to the Association, provided it is so characterized in the books and records of the Association.

C.11.8 **Declarant's Right to Inspect & Correct Accounts.** For a period of five years after the end of the Declarant Control Period, Declarant reserves for itself and for Declarant's accountants and attorneys, the right, but not the duty, to inspect, correct, and adjust the Association's financial books, records, and accounts from the Declarant Control Period. The Association may not refuse to accept an adjusting or correcting payment made by or for the benefit of Declarant. By way of Illustration but not limitation, Declarant may find it necessary to recharacterize an expense or payment to conform to Declarant's obligations under the Governing Documents or applicable law. This Section may not be construed to create a duty for Declarant or a right for the Association. In support of this reservation, each owner, by accepting an interest in or title to a lot, hereby grants to Declarant a right of access to the Association's books, records, and accounts that is independent of Declarant's rights during the Declarant Control and as the Declarant Class member of the Association, for the limited purpose of this Section and only to the extent necessary to enable Declarant to exercise its rights under this Section. This Subsection survives Sell-Out, if Sell-Out occurs within five years after the end of the Declarant Control Period.

C.12 **Right of Reimbursement for Shortfall Loans.** While Declarant controls the Association, Declarant may provide financial assistance to the Association. The purpose of this Section is to describe the relationship between Declarant and the Association regarding Declarant's financial support and the duty of the Association to reimburse Declarant for some of Declarant's contributions under certain circumstances. In case of conflict between this Section and other provision of the Declaration, this Section controls.

C.12.1 **Reservation.** Declarant hereby reserves the right to be reimbursed by the Association for any shortfall loan and hereby creates an affirmative duty for the Association to fund the reimbursement if and when Declarant exercises this right. **The Association's duties under this Section do not terminate at the end of the Declarant Control Period**.

C.12.2 **Examples.** Circumstances that are capable of resulting in shortfall loans include without limitation: (1) the failure of owners to pay assessments to the Association; (2) expenses pre-paid by the Association for which an owner or a third party is liable; and (3) any expense pre-paid by the Association for which a special assessment or increase in regular assessments is subsequently levied, or for which the Association obtains bank funding.

C.12.3 **Shortfall Loan**. A shortfall loan arises automatically, with or without formality. A shortfall loan may be evidenced by a promissory note executed by the Association in favor of Declarant or a person or entity designated by Declarant. A shortfall loan may be further secured by a lien against the common areas contained in a publicly recorded lien instrument executed by the Association. The Association will execute loan and security documents if so requested by Declarant. A shortfall loan incurs no interest and will be repaid - without demand - as the Association receives reimbursement of prepaid expenses, payment of delinquent assessments, or funding from loans or levied assessments. If a rate of interest on the shortfall loan will be imputed, the rate will be six percent per annum. Unless a promissory note specifies a different plan of payment, the Association will budget for shortfall loan repayment in a manner that retires 10 percent of the shortfall loan each year for 10 years.

C.12.4 **Shortfall Monitoring.** The Association is responsible for monitoring expected and actual shortfalls, identifying the differences that are eligible for reimbursement, and for reimbursing Declarant as targeted funds are received, without demand by Declarant.

C.13 **HOA Sale Fees on Vacant Lots.** This Section pertains to the sale and purchase of vacant lots or tracts of land prior to Build-Out. A request to the Association for a "payoff' or statement of assessments in connection with the purchase or closing of a vacant lot or tract may be satisfied with an assessment estoppel letter, and may not be treated as a request for "subdivision information" which triggers a resale certificate. On a bulk sale (multiple lots or tracts), a request to the Association for a resale certificate will be satisfied with a single resale certificate for the multi-lot or multi-tract transaction. In this Section, the term "Declarant" applies to its affiliates and successors.

C.13.1 **Declarant Not Liable**. The conveyance of a vacant lot or tract to Declarant is not subject to HOA Sale Fees unless so provided in the contract of sale to which Declarant is a party. This exemption applies to a successor Declarant who was a Builder prior to the assignment. Declarant is not liable for HOA Sales Fees that are not collected from a purchaser.

C.13.2 **Builders.** The conveyance of a vacant lot or tract by Declarant is treated as a "New Home Sale" for purposes of collecting HOA Sale Fees from the purchaser (typically a Builder), subject to the exclusive right of Declarant to modify or waive the obligation for HOA Sale Fees by contract with the purchaser. Declarant may negotiate different modifications or waivers with each Builder and for each contract. Conveyances of vacant lots or tracts between Builders are treated like New Home Sales for purposes of collecting HOA Sale Fees.

C.14 **HOA Sale Fees on New Home Sales.** This Section pertains to "**New Home Sales**", meaning the sale by Declarant or a Builder to a homeowner of a lot that is improved with a newly constructed dwelling, or a vacant lot with a contract for construction of the first dwelling. The request for or issuance of a "resale certificate" does not convert a New Home Sale into a Home Resale for purposes of this Declaration.

C.14.1 **Amounts.** On or before the closing of a New Home Sale to a purchaser other than Declarant, a Successor Declarant, or a Declarant-affiliate, the purchaser is liable for the below-stated HOA Sale Fees:

1) **$500.00** payable to the Association for its operating funds.
2) If any, the customary administrative HOA Sale Fees, payable to the Association or its manager.

C.14.2 **Operating Funds.** The contribution to the Association's operating funds may be used to defray Declarant's obligation, if any, for the Association's operating expenses that are not funded by regular assessments received from other owners during the Declarant Control Period. After the Declarant Control Period, the Association will transfer to Declarant the initial operating fund contributions received from buyers of New Homes.

C.14.4 **Liability.** If HOA Sale Fees are not collected from a New Home purchaser at closing, Declarant is not thereafter liable for the contribution, and Declarant reserves the right (but not the duty) to waive the purchaser's liability for HOA Sale Fees on a case by case basis. Declarant acknowledges that this condition may create an inequity among the owners, but deems it a necessary response to the volume and diversification of closing New Home Sales.

Appendix D

Notice of Possible Oil & Gas Activity Affecting the Subdivision

Oil and natural gas are found in most parts of Texas, making Texas one of the largest oil and gas producing regions on Earth in the era in which Lola Creek Ranch Homeowners Association, Inc. (the "**Subdivision**") is developed. As exploration and development technologies evolve, new areas of the state become attractive sources for exploration, drilling, and production. No one can guaranty where the next promising oil or gas field will be located. Nor can anyone guaranty that a particular location will never be used for oil or gas production. Someday your home may be closer to an oil or gas well than you expect. Or the nearby well that has been dormant for years may be revived. The purpose of this Notice is to make you aware that Declarant, Builders, and the Association have no control over, nor liability for, past, present, or future oil and gas activities within or near the Subdivision.

As used in this Notice, the following terms have specific meanings:

"**Fixtures**" refers to existing, abandoned, or future pipelines, pipeline rights-of-way, pipeline easements (collectively "**pipeline**"), drill sites, wells, equipment, and facilities for the exploration, extraction, and transportation of oil, natural gas, petroleum products, or other gases or liquids located near or within a drill site or pipeline, whether now existing or created in the future.

"**Uses**" means rights, including easements, to access, operate, inspect, install, maintain, repair, and remove Fixtures, and the exercise of such rights from time to time and at any time, by an owner or operator of a drill site or pipeline.

"**We**" and "**Us**" means, individually and collectively, Declarant, Builders, the Association, and anyone affiliated with them, such as their respective officers, directors, employees, agents, parent company, subsidiaries, affiliates, heirs, personal representatives, successors, and assigns.

"**You**" and "**Your**" refers to any person acquiring, owning, or occupying a lot or any portion of the Subdivision, and the person's heirs, personal representatives, successors, and assigns.

By contracting to purchase a lot, and by acquiring an ownership or occupancy interest in a lot or any portion of the Subdivision:

YOU ACCEPT THE OBLIGATIONS AND CONSEQUENCES OF OWNERSHIP AND OCCUPANCY, INCLUDING THE RISK THAT FIXTURES AND USES MAY OR MAY NOT BE PRESENT WITHIN OR NEAR YOUR LOT OR THE SUBDIVISION, NOW OR IN THE FUTURE, AND THE RISK THAT THE FIXTURES AND USES MAY NOW OR AT ANY FUTURE TIME NEGATIVELY AFFECT YOUR LOT OR THE SUBDIVISION, SUCH AS *(by way of example, without limitation)* (1) YOUR HEALTH, SAFETY, OR WELFARE, (2) QUIET ENJOYMENT OF YOUR LOT, (3) USE OF A COMMON AREA FOR ITS INTENDED PURPOSE, (4) CONTAMINATION OF SOIL, AIR, OR GROUNDWATER ON YOUR LOT OR IN THE SUBDIVISION, AND (5) DIMINUTION OF VALUE OF YOUR LOT, OTHER PORTIONS OF THE SUBDIVISION, OR PROPERTY NEAR THE SUBDIVISION.

YOU ACKNOWLEDGE THAT WE ARE NOT LIABLE FOR DAMAGE TO PROPERTY, PERSONS, OR OTHER BEINGS CAUSED BY FIXTURES, USES, OR THE ACTIONS OR OMISSIONS OF ANY THIRD PARTY, SUCH AS THE OWNER OR OPERATOR OF A DRILL SITE OR PIPELINE.

YOU RELEASE EACH OF US FROM ANY AND ALL COMPLAINTS, DEMANDS, CLAIMS, CAUSES OF ACTION, LOSSES, DAMAGES, COSTS, INJURIES, OR OTHER LIABILITY THAT YOU HAVE OR MAY HAVE, AT ANY TIME, THAT RELATE IN ANY WAY TO ANY FIXTURE OR USE, PAST, PRESENT, OR FUTURE.

Appendix E- Plat

WISE COUNTY CLERK/LOCAL REGISTRAR BLANCA TUMA

202512950 PLAT
09/26/2025 09:14:54 AM Total Pages: 3 Fee: 60.00
Blanca Tuma, County Clerk - Wise County, Texas

PLAT NAME: LOLA CREEK RANCH, PHASE 2

DEDICATOR: KYLE ERWIN
KSE MANAGEMENT SERIES 8

FINAL PLAT: CABINET: H SLIDE: 137

DOCUMENT NUMBER: 202512950

TAX CERTIFICATE: 202512951

OLD PROPERTY: BLOCKS 88, 107 AND 110, IN THE VAN ZANDT COUNTY SCHOOL LAND SURVEY, ABSTRACT NO. 1182, SITUATED IN WISE COUNTY, TEXAS, BEING 65.150 ACRES.

NEW PROPERTY: LOTS 2-13, BLOCK A, LOTS 2-26, BLOCK B, LOTS 1-6 BLOCK C, SITUATED IN WISE COUNTY, TEXAS.

200 N. Trinity • Records Bldg. • P.O. Box 359 • Decatur, TX 76234 • (940) 627-3351 • Fax (940) 627-2128
E-Mail: blanca.tuma@co.wise.tx.us • Website: www.wisecounty.tx.gov

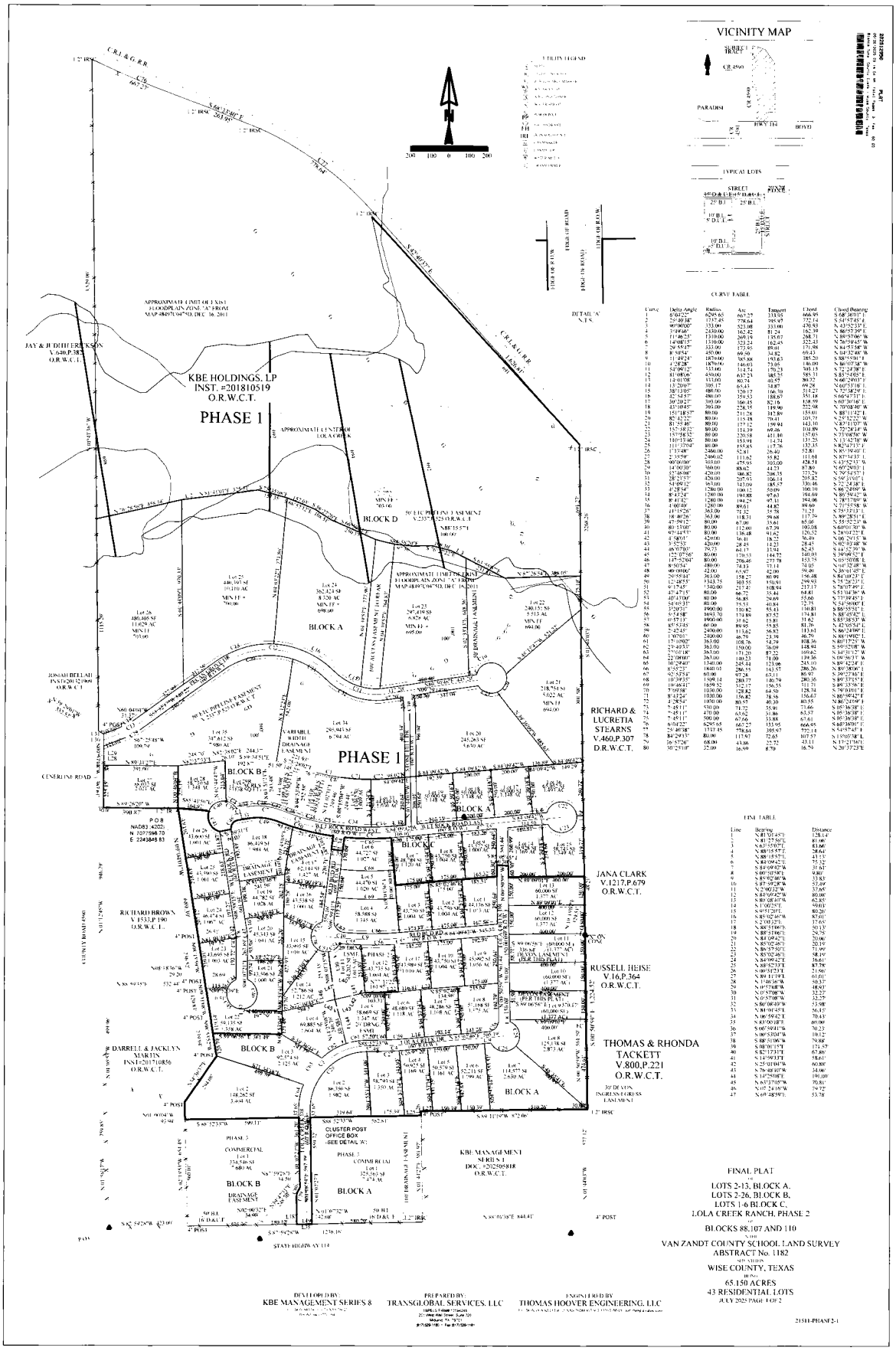
FILED AND RECORDED

Instrument Number: 202512950
Filing and Recording Date: 09/26/2025 09:14:54 AM Pages: 3 Recording Fee: $60.00
I hereby certify that this instrument was FILED on the date and time stamped hereon and RECORDED in the RECORDS of Wise County, Texas.

Blanca Tuma, County Clerk
Wise County, Texas

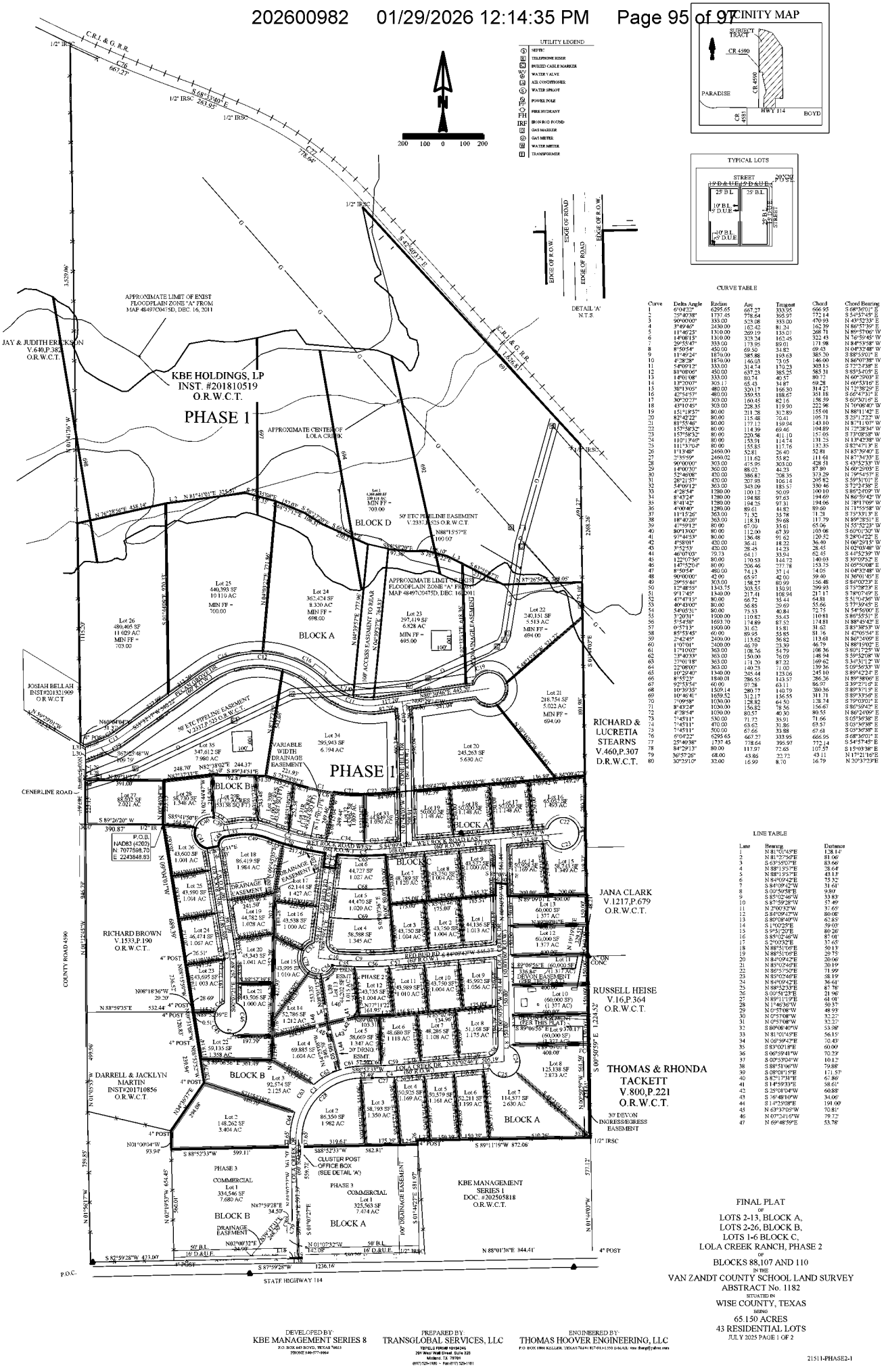
ANY PROVISION CONTAINED IN ANY DOCUMENT WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE REAL PROPERTY DESCRIBED THEREIN BECAUSE OF RACE OR COLOR IS INVALID, UNENFORCEABLE, AND VOID UNDER FEDERAL LAW AND IS UNENFORCEABLE. DO NOT DESTROY - This document is part of the Official Record.

Deputy, chriss



Appendix F- Right of Way Maintenance Obligations

RECORDING PAGE



Curve	Delta Angle	Radius	Arc	Tangent	Chord	Chord Bearing
1	6°00'12"	6295.65	667.27	333.95	666.95	S 84°57'01" E
2	25°40'38"	1737.45	778.64	395.97	772.14	S 54°57'45" E
3	90°00'00"	380.00	528.08	335.00	470.93	N 43°52'33" E
4	3°49'46"	2430.00	162.42	81.24	162.39	N 86°57'39" E
5	11°46'23"	1310.00	269.19	135.07	268.71	N 89°57'06" W
6	14°08'15"	1310.00	323.24	162.45	322.43	N 76°59'45" W
7	29°55'47"	353.00	173.95	89.01	171.98	N 84°53'58" W
8	8°50'54"	450.00	69.50	34.82	69.43	N 04°32'48" W
9	11°49'24"	1870.00	385.88	193.63	385.20	S 88°55'01" E
10	4°28'28"	1870.00	146.03	73.05	146.00	N 86°07'38" W
11	54°09'12"	333.00	314.74	170.23	303.15	S 72°23'58" E
12	81°08'06"	450.00	637.23	385.25	583.31	S 85°53-05" E
13	14°01'08"	353.00	80.74	40.57	80.73	N 69°39'03" E
14	13°20'07"	305.17	65.43	34.87	69.28	N 66°53'16" E
15	38°13'05"	480.00	320.17	166.30	314.23	N 72°38'29" E
16	42°54'57"	480.00	359.53	188.67	351.18	S 66°47'51" E
17	30°20'27"	303.00	160.45	82.16	158.59	S 60°30'16" E
18	43°01'45"	305.00	228.95	119.90	223.56	N 70°08'40" W
19	151°18'57"	80.00	211.28	312.89	155.01	N 88°11'42" E
20	82°43'22"	80.00	115.48	70.41	105.71	S 25°12'27" W
21	81°55'46"	80.00	177.12	159.94	143.10	S 87°11'09" W
22	157°58'52"	80.00	114.39	69.46	104.89	N 73°28'34" W
23	157°58'52"	80.00	229.58	411.10	157.05	S 73°08'53" W
24	110°13'46"	80.00	153.91	114.74	131.25	N 13°42'39" W
25	111°37'04"	80.00	155.85	117.76	132.35	S 82°47'13" E
26	1°13'48"	2460.00	52.81	26.40	52.81	N 87°04'33" E
27	2°35'59"	2460.02	111.62	55.82	111.61	N 87°34'33" E
28	90°00'00"	303.00	475.99	303.00	428.51	S 43°52'33" W
29	14°00'30"	360.00	88.02	44.23	87.80	N 60°29'03" E
30	52°46'06"	420.00	386.82	208.35	373.29	N 79°54'57" E
31	28°21'57"	420.00	207.93	106.14	205.82	S 59°31'01" E
32	54°06'12"	363.00	343.09	185.57	330.46	S 72°24'38" E
33	4°28'54"	1280.00	100.12	50.09	100.10	S 86°52'02" W
34	8°43'24"	1280.00	194.88	97.63	194.69	N 86°59'42" W
35	8°41'42"	1280.00	194.25	97.31	194.06	N 78°11'09" W
36	4°00'40"	1280.00	89.61	44.82	89.60	N 71°55'58" W
37	11°15'26"	363.00	71.32	35.78	71.21	S 73°33'13" E
38	18°40'26"	363.00	118.31	59.68	117.79	N 89°38'51" E
39	47°59'12"	80.00	67.00	35.61	65.06	N 55°52'23" W
40	80°13'00"	80.00	112.00	67.39	103.08	S 69°01'30" W
41	97°44'53"	80.00	136.48	91.62	120.52	S 28°04'22" E
42	4°58'01"	420.00	36.41	18.22	36.40	N 06°29'15" W
43	3°52'53"	420.00	28.45	14.23	28.45	N 02°03'48" W
44	46°07'03"	79.73	64.17	33.94	62.45	S 44°52'39" W
45	122°07'56"	80.00	170.53	144.72	140.93	S 30°09'52" E
46	147°52'04"	80.00	206.46	777.78	153.75	S 05°56'08" E
47	8°50'54"	480.00	74.13	37.14	74.05	N 04°32'48" W
48	90°00'00"	42.00	65.97	42.00	59.40	N 36°01'45" E
49	29°55'44"	303.00	158.27	80.99	156.48	S 84°00'23" E
50	12°48'55"	1343.75	303.55	150.91	299.93	S 75°28'25" E
51	9°17'45"	1340.00	217.41	108.94	217.17	S 87°07'49" E
52	4°47'13"	80.00	66.72	35.44	64.81	S 51°04'36" W
53	40°40'00"	80.00	56.85	29.69	55.66	S 77°30'45" E
54	54°05'31"	80.00	75.53	40.84	72.75	N 54°56'00" E
55	3°20'31"	1500.00	110.87	55.43	110.81	S 86°55'51" E
56	5°54'58"	1693.70	174.89	87.52	174.81	S 88°45'42" E
57	0°57'13"	1900.00	31.62	15.81	31.62	S 85°38'53" W
58	85°53'45"	60.00	89.95	55.85	81.76	N 47°05'54" E
59	2°42'45"	2400.00	113.62	56.82	113.61	N 86°24'09" E
60	1°07'01"	2400.00	46.79	23.39	46.79	N 88°19'02" E
61	13°10'05"	363.00	108.76	54.79	108.36	N 80°17'25" W
62	23°40'33"	363.00	150.00	76.09	148.94	S 59°52'08" W
63	37°01'18"	363.00	171.29	87.22	169.62	S 34°31'12" W
64	22°08'00"	363.00	140.23	71.00	139.36	S 09°56'33" W
65	10°29'40"	1340.00	245.44	123.06	245.10	S 89°42'54" E
66	8°55'23"	1840.01	286.55	143.57	286.26	S 89°38'06" E
67	92°53'54"	60.00	97.28	63.11	86.97	S 39°27'19" E
68	10°39'35"	1509.14	280.77	140.79	280.36	S 89°13'19" E
69	10°46'41"	1659.52	312.17	156.55	311.71	S 89°33'56" E
70	7°09'58"	1030.00	128.82	64.50	128.74	S 79°19'05" E
71	8°43'24"	1030.00	156.82	78.56	156.67	S 86°59'42" E
72	4°28'54"	1030.00	80.57	40.30	80.55	N 86°24'06" E
73	7°45'11"	530.00	71.72	35.91	71.66	S 05°36'38" E
74	7°45'11"	470.00	63.62	31.86	63.57	S 05°36'38" E
75	7°45'11"	500.00	67.66	33.88	67.61	S 05°36'38" E
76	6°04'22"	6295.65	667.27	333.95	666.95	S 68°36'01" E
77	25°40'38"	1737.45	778.64	395.97	772.14	S 54°57'45" E
78	84°29'13"	80.00	117.97	72.65	107.57	S 15°03'38" E
79	36°57'26"	68.00	43.86	22.73	43.11	N 17°21'16" E
80	30°23'10"	32.00	16.99	8.70	16.79	N 20°37'23"E

Line	Bearing	Distance
1	N 81°01'45"E	138.14'
2	N 81°27'50"E	81.06'
3	S 63°55'07"E	83.66'
4	N 88°13'57"E	28.68'
5	N 88°13'57"E	43.13'
6	N 86°45'42"E	75.32'
7	S 84°09'42"W	31.61'
8	S 02°50'58"E	9.89'
9	S 85°02'46"W	33.83'
10	S 87°59'28"W	57.49'
11	N 2°00'32"W	37.69'
12	S 84°09'42"W	80.08'
13	S 80°08'40"W	67.85'
14	S 1°00'25"E	59.03'
15	S 9°51'20"E	80.26'
16	S 85°02'46"W	87.01'
17	S 2°00'32"E	37.65'
18	N 88°51'06"E	50.13'
19	N 88°51'06"E	29.75'
20	N 84°09'42"E	20.06'
21	N 85°02'46"E	30.19'
22	N 86°57'50"E	71.99'
23	N 85°02'46"E	58.19'
24	N 84°09'42"E	56.61'
25	N 88°52'33"E	87.78'
26	S 02°51'27"E	21.98'
27	N 89°11'19"E	61.01'
28	N 1°46'36"W	50.37'
29	N 0°57'08"W	48.93'
30	N 0°57'08"W	32.27'
31	N 0°57'08"W	32.27'
32	S 80°08'40"W	53.98'
33	N 81°01'45"E	56.15'
34	N 00°59'42"E	70.43'
35	S 83°00'18"E	60.00'
36	S 06°59'41"W	70.23'
37	S 09°53'04"W	10.12'
38	S 88°51'06"W	79.88'
39	S 08°08'15"E	171.57'
40	S 82°17'31"E	67.86'
41	S 14°59'33"E	58.61'
42	S 25°01'04"W	60.88'
43	S 76°48'10"W	34.06'
44	S 14°23'08"E	191.00'
45	N 63°37'05"W	70.81'
46	N 07°24'16"W	79.72'
47	N 69°48'59"E	53.78'

FINAL PLAT
OF
LOTS 2-13, BLOCK A,
LOTS 2-26, BLOCK B,
LOTS 1-6 BLOCK C,
LOLA CREEK RANCH, PHASE 2
OF
BLOCKS 88,107 AND 110
IN THE
VAN ZANDT COUNTY SCHOOL LAND SURVEY
ABSTRACT No. 1182
SITUATED IN
WISE COUNTY, TEXAS
BEING
65.150 ACRES
43 RESIDENTIAL LOTS
JULY 2025 PAGE 1 OF 2

DEVELOPED BY:
KBE MANAGEMENT SERIES 8
P.O. BOX 645 BOYD, TEXAS 76023
PHONE 940-577-4864

PREPARED BY:
TRANSGLOBAL SERVICES, LLC
TBPELS FIRM# 10193246
209 West Wall Street, Suite 320
Midland, TX 79701
(817) 529-1900 – Fax (817) 529-1101

ENGINEERED BY:
THOMAS HOOVER ENGINEERING, LLC
P.O. BOX 1806 KELLER, TEXAS 76244 | 817-913-1350 | E-MAIL: tom.thoog@yahoo.com

21511-PHASE2-1

OWNER'S CERTIFICATE

KBE MANAGEMENT SERIES 8 is the owner of a 65.150 acre tract of land in Block A, Van Zandt County School Land Survey, Abstract No. 1182, Patent No. 720, Volume 12, dated [illegible], Wise County, Texas and being a portion of that certain tract of land as described in deed to KBE MANAGEMENT SERIES 8 as recorded in Instrument No. 20250597 4 Official Records of Wise County, Texas being more particularly described as follows.

BEGINNING at a 1/2" iron rod found with a cap at the southeast corner of Lot 27, Block B of Lola Creek Ranch, Phase 1 as recorded in Cabinet F, Slide 10 of the Plat Records of Wise County, Texas and being in the south line of said Phase 1 and by plat call the southwest corner of Lot 28 of said Block B and also being by deed call the northwest corner of that certain tract of land as described in deed to Richard Brown as recorded in Volume 1533, Page 190 Official Records of Wise County, Texas. Said 1/2" iron rod found being called the POINT OF BEGINNING and having a Texas Coordinate System of 1983, North Central ZONE (4202), coordinate of N: 7077698.70, E: 2243848.83 feet, for reference.

THENCE S 85°41'50" E along said Phase 1 a distance of 164.97 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap at the point of curvature a curve to the left having a Radius of 60.00 feet, a Central Angle of 97°44'53", a Chord Bearing of S 28°04'22" E and a Chord Distance of 120.52 feet,

THENCE along said curve in a southeasterly direction a distance of 136.48 feet to a 1/2" iron rod found with a cap;

THENCE N 78°59'31" E a distance of 60.03 feet to a 1/2" iron rod found with a cap at the Point of Curvature of a curve to the right having a Radius of 42.00 feet, a Central Angle of 90°00'00", a Chord Bearing of N 36°01'45" E and a Chord Distance of 59.40 feet;

THENCE along said curve in a northeasterly direction a distance of 65.97 feet to a 1/2" iron rod found with a cap;

THENCE N 81°01'45" E a distance of 56.15 feet to a 1/2" iron rod found with a "TQ Burks #5509" cap at the Point of Curvature of a curve to the right having a Radius of 303.00 feet, a Central Angle of 29°55'44", a Chord Bearing of S 84°00'23" E and a Chord Distance of 156.48 feet;

THENCE along said curve in a southeasterly direction a distance of 158.27 feet to a 1/2" iron rod found with a cap at the Point of Curvature of a curve to the left having a Radius of 1,343.75 feet, a Central Angle of 12°48'55", a Chord Bearing of S 75°28'23" E and a Chord Distance of 299.93 feet,

THENCE along said curve in a southeasterly direction a distance of 303.55 feet to a 1/2" iron rod found with a cap;

THENCE S 06°59'41" W a distance of 70.23 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap;

THENCE S 83°00'18" E a distance of 60.00 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap;

THENCE N 06°59'42" E a distance of 70.43 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap at the Point of Curvature of a curve to the left having a Radius of 1,340.00 feet, a Central Angle of 10°29'40", a Chord Bearing of N 89°42'24" E and a Chord Distance of 245.10 feet;

THENCE along said curve in an easterly direction a distance of 245.44 feet to a 1/2" iron rod set with a cap;

THENCE S 04°54'44" E a distance of 250.00 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap;

THENCE N 85°02'46" E a distance of 535.51 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap;

THENCE N 00°50'59" W a distance of 60.30 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap;

THENCE S 85°05'45" E a distance of 60.30 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap;

THENCE S 00°50'59" E a distance of 60.30 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap;

THENCE N 89°09'01" E a distance of 400.00 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap in the west line of that certain tract of land described in deed to Jana Clark as recorded in Volume 1217, Page 879 O.R.W.C.T.;

THENCE S 00°50'59" E along said Clark tract and passing at 307.71 an "X" found cut in the concrete at the southwest corner and passing at 754.49 feet a fence post for a corner at the southwest corner of that certain tract of land as described in deed to Russell Heise as recorded in Volume 16, Page 364 and continuing in all a distance of 1,224.52 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap in the west line of that certain tract of land as described in deed to Thomas and Rhonda Tackett as recorded in Volume 800, Page 221 O.R.W.C.T. and also being the northeast corner of that certain tract of land as described in deed to KBE Management Series 1 as recorded in Document #2025056818 O.R.W.C.T.;

THENCE S 89°11'19" W along the north line of said KBE Management Series 1 tract a distance of 672.06 feet to a 4" fence post;

THENCE S 00°51'23" E along the west side of said KBE Management Series 1 tract a distance of 21.96 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap;

THENCE S 88°52'33" W a distance of 582.81 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap;

THENCE S 01°07'27" E a distance of 559.72 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap in the north line of said Hwy 114;

THENCE S 88°51'06" W along said right-of-way a distance of 79.86 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap;

THENCE N 01°07'32" W leaving said right-of-way a distance of 142.08 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap at the Point of Curvature of a curve to the right having a Radius of 68.00 feet, a Central Angle of 36°57'26", a Chord Bearing of N 17°21'16" E and a Chord Distance of 43.11feet;

THENCE along said curve in a northeasterly direction a distance of 43.86 feet to a 1/2" iron rod set with a cap at the Point of Reverse Curvature of a curve to the left having a Radius of 32.00 feet, a Central Angle of 30°25'10", a Chord Bearing of N 20°37'23" E and a Chord Distance of 16.79 feet;

THENCE along said curve in a northerly direction a distance of 16.99 feet to a 1/2" iron rod set with a cap,

THENCE N 01°07'27" W a distance of 381.20 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap,

THENCE S 88°52'33" W a distance of 599.11 feet to a 1/2" iron rod set with a "TQ Burks #5509" cap in the east line of that certain tract of land as described in deed to Darrell and Jacklyn Martin as recorded in Instrument No. 201710856 O.R.W.C.T.;

THENCE N 01°00'04" W along said Martin tract a distance of 93.94 feet to a 4" post for a corner;

THENCE N 34°36'37" E along said Martin tract a distance of 294.08 feet to a 4" post for a corner;

THENCE N 08°53'52" W along said Martin tract a distance of 239.94 feet to a 4" post for a corner,

THENCE N 09°31'08" W along said Martin tract a distance of 120.82 feet to a 4" post for a corner and said point being by deed call the southeast corner of said Brown tract;

THENCE N 08°16'36" W along said Brown tract a distance of 29.20 feet to a 4" post for a corner;

THENCE N 08°15'59" W along said Brown tract a distance of 236.52 feet to a 4" post for a corner;

THENCE N 09°04'01" W along said Brown tract a distance of 689.39 feet to the Point of Beginning and containing in all 2,837,950 square feet or 65.150 acres of land.

And designated herein as Lots 2-13, Block A, Lots 2-26, Block B, and Lots 1-6, Block C of Lola Creek Ranch, Phase 2, a subdivision to Wise County, Texas, and whose name is subscribed hereto, hereby dedicate to the use of the public forever all streets, alleys, parks, water courses, drains, easements, rights-of-way and public places thereon shown for the purpose and consideration therein expressed.

Kyle Erwin (KBE MANAGEMENT SERIES 8)

Date

STATE OF TEXAS
COUNTY OF WISE

BEFORE ME, the undersigned authority, on this day personally appeared Kyle Erwin known to me to be the person whose name is subscribed to the above and foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the ____ day of _____, 2025

Notary Public

Commission expires _____

SUBDIVISION RESTRICTIONS

1. IF SEWAGE DISPOSAL IS BY MEANS ON-SITE SEWAGE FACILITIES, A PERMIT MUST BE OBTAINED FOR EACH LOT.
2. SEPTIC TANK PERFORMANCE CANNOT BE GUARANTEED, EVEN THOUGH ALL PROVISIONS OF THE WISE COUNTY RULES FOR PRIVATE SEWAGE FACILITIES ARE COMPLIED WITH.
3. INSPECTION AND/OR ACCEPTANCE OF A PRIVATE SEWAGE FACILITY BY WISE COUNTY SHALL INDICATE ONLY THAT THE FACILITY MEETS THE MINIMUM REQUIREMENTS AND DOES NOT RELIEVE THE PROPERTY OWNER OF THE RESPONSIBILITY TO COMPLY WITH COUNTY, STATE AND FEDERAL REGULATIONS.
4. IN PHASE TWO ALL LOTS LESS THAN 2 ACRES WILL BE SERVED BY WALNUT CREEK UTILITY DISTRICT.
5. ON-SITE SEWAGE FACILITIES, ALTHOUGH APPROVED OF MEETING MINIMUM STANDARDS, MUST BE UPGRADED BY THE PROPERTY OWNER AT THE PROPERTY OWNER'S EXPENSE IF THE NORMAL OPERATION OF THE FACILITY RESULTS IN OBJECTIONABLE ODORS, IF UNSANITARY CONDITIONS ARE CREATED OR IF THE FACILITY, AT ANY TIME, DOES NOT COMPLY WITH GOVERNMENTAL REGULATIONS.
6. A PROPERLY DESIGNED AND CONSTRUCTED ON-SITE SEWAGE FACILITY, SITUATED IN SUITABLE SOIL, MAY MALFUNCTION IF THE FACILITY IS NOT PROPERLY MAINTAINED AND CONTROLLED; THEREFORE, IT SHALL BE THE PROPERTY OWNER'S RESPONSIBILITY TO MAINTAIN AND OPERATE THE ON-SITE SEWAGE FACILITY IN A SATISFACTORY MANNER.
7. ON-SITE SEWAGE FACILITIES MUST BE DESIGNED IN ACCORDANCE WITH THE RULES ESTABLISHED BY WISE COUNTY AND THE TCEQ. DESIGN SHALL BE BASED ON THE RESULTS OF A SITE EVALUATION PERFORMED ON EACH LOT.
8. ONLY ONE SINGLE-FAMILY RESIDENCE OR DUPLEX SHALL BE LOCATED ON A LOT WHEN AN ON-SITE SEWAGE FACILITY IS USED AND ONLY ONE RESIDENCE SHALL BE CONNECTED TO SAID FACILITY.
9. BUILDINGS TO BE BUILT ON LOTS WHICH ARE LOWER THAN THE ROAD OR ROADS ON WHICH THEY FRONT AND/OR ABUT SHALL BE BUILT SUCH THAT THE MINIMUM FINISHED FLOOR ELEVATION IS AT LEAST 2-FOOT ABOVE THE PROPOSED GRADE OF THE YARD ADJACENT TO THE BUILDINGS. THIS IS TO REDUCE THE RISK OF DAMAGE TO BUILDINGS THAT MAY BE CAUSED BY STORM WATER DRAINAGE.
10. NO BUILDINGS SHALL BE BUILT IN A 100-YEAR FLOOD PLAIN UNLESS THE MINIMUM RECOMMENDED FINISHED FLOOR ELEVATION IS COMPLIED WITH; IN NO CASE SHALL THE MINIMUM FINISHED FLOOR ELEVATION BE LESS THAN 2-FOOT ABOVE THE 100-YEAR FLOOD PLAIN ELEVATION, PRIOR TO ANY CONSTRUCTION WITHIN THE FLOODPLAIN, A FLOODPLAIN DEVELOPEMENT PERMIT MUST BE OBTAINED FROM THE WISE COUNTY FLOODPLAIN ADMINISTRATOR.
11. ANY FILLING OR OBSTRUCTION OF THE FLOODWAY OR DRAINAGE EASEMENTS IS PROHIBITED.
12. ANY DRIVEWAY CULVERTS, IF NECESSARY, ARE TO BE INSTALLED BY THE PROPERTY OWNER AND IN ACCORDANCE WITH THE POLICIES OF WISE COUNTY AND SHALL BE OF SUFFICIENT SIZE TO PASS THE 10-YEAR STORM. IN NO CASE SHALL A DRIVEWAY CULVERT BE LESS THAN 18-INCHES IN DIAMETER ON A PROPOSED ROAD.
13. THE DRIVEWAY ABOVE A CULVERT SHOULD BE CONSTRUCTED SUCH THAT THE DRIVEWAY IS AT LEAST SIX (6") INCHES BELOW THE OUTSIDE EDGE OF THE MAIN ROADWAY. THIS WILL REDUCE THE RISK OF WATER, WHICH EXCEEDS THE CAPACITY OF THE CULVERT, FLOWING OVER THE CULVERT AND ENTERING THE ROADWAY.
14. ANY UNDERGROUND UTILITY COMPANY SHALL BE CONTACTED TO VERIFY DEPTH AND LOCATIONS OF UTILITIES PRIOR TO ANY EXCAVATION OCCURRING ON THE LOT.
15. THE DRAINAGE STUDY OF LOLA CREEK SHALL BE PROVIDED TO CONFIRM THE LOCATION OF THE 100-YEAR FEMA FLOODPLAIN. IN ADDITION, THE CALCULATED 100-YEAR WATER SURFACE ELEVATION DETERMINED FROM THE DRAINAGE STUDY SHOULD BE INCLUDED ON THE PRELIMINARY PLAT. (RE: SECTION 6.08.B.2)
15. THE SEPARATELY PROVIDED LOLA CREEK RANCH RESTRICTIONS SHALL BE REVISED TO STATE THAT ANY DRIVEWAY CULVERTS, IF NECESSARY, ARE TO BE INSTALLED BY THE PROPERTY OWNER AND IN ACCORDANCE WITH THE POLICIES OF WISE COUNTY AND SHALL BE OF SUFFICIENT SIZE TO PASS THE 10-YEAR STORM. IN NO CASE SHALL A DRIVEWAY CULVERT BE LESS THAN 18-INCHES IN DIAMETER ON A PROPOSED ROAD. (RE: SECTION 4.06.F.11)
17. ALL MAILBOXES SHALL BE PLACED AND CONSTRUCTED IN ACCORDANCE WITH THE ACCESS DRIVEWAY PERMIT AND DEVELOPMENT RULES AND REGULATIONS REQUIREMENTS.
18. CLUSTER POST OFFICE BOX WILL BE MAINTAINED BY DEVELOPER UNTIL COMMERCIAL LOTS ARE SOLD AND THEN IT WILL BE SHARED OWNERSHIP/MAINTENANCE BETWEEN THE 2 COMMERCIAL LOTS.

UTILITY EASEMENTS:

ANY PUBLIC UTILITY, INCLUDING WISE COUNTY, SHALL HAVE THE RIGHT TO MOVE AND KEEP MOVED ALL OR PART OF ANY BUILDING, FENCES TREES, SHRUBS, OR OTHER GROWTHS OR IMPROVEMENTS WHICH IN ANY WAY ENDANGER OR INTERFERE WITH THE CONSTRUCTION MAINTENANCE, OR EFFICIENCY OF ITS RESPECTIVE SYSTEMS ON ANY OF THE EASEMENTS SHOWN ON THE PLAT; AND ANY PUBLIC UTILITY, INCLUDING WISE COUNTY, SHALL HAVE THE RIGHT AT ALL TIMES OF INGRESS AND EGRESS TO AND FROM AND UPON SAID EASEMENTS FOR THE PURPOSE OF CONSTRUCTION, RECONSTRUCTION, INSPECTION, PATROLLING, MAINTAINING AND ADDING TO OR REMOVING ALL OR PART OF ITS RESPECTIVE SYSTEMS WITHOUT THE NECESSITY AT ANY TIME OF PROCURING THE PERMISSION OF ANYONE.

DRAINAGE EASEMENT RESTRICTION:

NO CONSTRUCTION, OR FILLING WITHOUT THE WRITTEN APPROVAL OF THE WISE COUNTY COMMISSIONER'S COURT, SHALL BE ALLOWED WITHIN A DRAINAGE EASEMENT. NO OBSTRUCTION TO THE NATURAL FLOW OF WATER SHALL OCCUR. NOTICE: DUE TO UNKNOWN LOCATIONS OF UNDERGROUND UTILITIES, IN PARTICULAR GAS AND OIL FACILITIES, THE DEVELOPER IS TO MAKE KNOWN ALL LOCATIONS OF EXISTING PIPELINE AND/OR EASEMENTS, INCLUDING BLANKET EASEMENTS, ACROSS THE PROPERTY.

PUBLIC OPEN SPACE RESTRICTION:

NO STRUCTURE, OBJECT, OR PLANT OF ANY TYPE MAY OBSTRUCT VISION FROM A HEIGHT OF THIRTY (30) INCHES TO A HEIGHT OF TEN (10) FEET ABOVE THE CROWN OF THE ROAD, INCLUDING, BUT NOT LIMITED TO BUILDINGS, FENCES, WALKS, SIGNS, TREES, SHRUBS, CARS, TRUCKS, ETC., IN THE PUBLIC OPEN SPACE EASEMENT AS SHOWN ON THE PLAT. THESE OPEN SPACE EASEMENTS WILL REMAIN IN EFFECT UNTIL VACATED BY A COURT ORDER ISSUED BY THE COMMISSIONER'S COURT OF WISE.

NOTES:

1. BEARINGS ARE BASED ON THE TEXAS COORDINATE SYSTEM NAD 83 (TEXAS NORTH CENTRAL ZONE 4202).
2. ALL LOTS WILL HAVE SEPTIC.
3. ALL LOTS ABOVE 2 ACRES MAY HAVE WELL.
4. THIS SUBDIVISION IS NOT LOCATED WITHIN THE ETJ OF ANY MUNICIPALITY.
5. THIS PROPERTY LIES IN ZONE "X," ACCORDING TO FLOOD INSURANCE RATE MAP 48497C0475D, PANEL 475 OF 600 WISE COUNTY TEXAS, EFFECTIVE DATE: DECEMBER 16, 2011.
6. THIS DEVELOPMENT LIES WITHING THE UPPER TRINITY GROUNDWATER CONSERVATION DISTRICT (UTGCD) AND IS SUBJECT TO THE UTGCD'S REGISTRATION AND PERMITTING REQUIREMENTS.
7. GROSS AREA = 65.150 ACRES
   ROW DEDICATION = 7.839 ACRES
   NET RESIDENTIAL AREA = 57.311 ACRES
8. NO PART OF THIS SUBDIVISION IS LOCATED WITHIN THE BREACH INUNDATION LIMITS OF A NATURAL RESOURCES CONSERVATION SERVICE (NRCS) REGULATED FLOOD CONTROL STRUCTURE OR A DAM AS DEFINED BY TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ).
9. IF THE CURRENT PROPERTY QUALIFIES FOR AN AGRICULTURAL TAX EXEMPTION AND THE PROPOSED USE OF THE PROPERTY IS SUBJECT TO A CHANGE IN THE TAX EXEMPTION, THE PROPERTY MAY BE SUBJECT TO ROLL-BACK TAXES FOR THE PREVIOUS THREE (3) YEARS.
10. SEPTIC SYSTEMS WILL NOT BE ALLOWED ON PROPERTIES UNDER 2 ACRES WITHOUT PROOF OF WATER SERVICE.
11. DRIVEWAY PERMITS ARE TO BE OBTAINED THROUGH THE COUNTY ENGINEER
12. ALL MAILBOXES SHALL BE PLACED AND CONSTRUCTED IN ACCORDANCE WITH THE ACCESS DRIVEWAY PERMIT AND DEVELOPMENT RULES AND REGULATIONS REQUIREMENTS.
13. IT HAS BEEN VERIFIED THAT THERE IS ADEQUATE SPACE TO CONSTRUCT HOMES ON LOTS 9 AND 11 ADJACENT TO THE GAS WELL EQUIPMENT LOCATED ON LOT 10.
14. LOTS 9, 10 & 11 IN BLOCK A, ARE NON-BUILD LOTS UNTIL GAS WELL EQUIPMENT IS REMOVED.
15. THE MEDIAN OF LOLA CREEK DRIVE AS IT COMES OFF OF HWY 114 WILL BE MAINTAINED BY DEVELOPER UNTIL COMMERCIAL LOTS ARE SOLD AND THEN IT WILL BE SHARED OWNERSHIP/MAINTENANCE BETWEEN THE 2 COMMERCIAL LOTS.

THE COMMISSIONER'S COURT OF WISE COUNTY, TEXAS ON _____, 2025.
VOTED AFFIRMATIVELY TO ADOPT THIS PLAT AND APPROVE IT FOR FILING OF RECORD.

BY: _____
WISE COUNTY JUDGE

ATTEST: _____
WISE COUNTY CLERK

811
1-(800)-344-8377
TEXAS ONE CALL SYSTEM

SURVEYORS CERTIFICATE

I, the undersigned, a Professional Land Surveyor in the State of Texas, hereby certify that this plat is true and correct and was prepared from an actual survey of the property made under my direct supervision on the ground.

The word certify as used in various forms herein is understood to be an expression of Professional opinion by the surveyor based on his best knowledge, information, and belief.

JAMES C. YARGER TEXAS R.P.L.S. NO. 5954 DATE 08-01-2025

STATE OF TEXAS
JAMES CURTIS YARGER
5954
REGISTERED PROFESSIONAL LAND SURVEYOR

DEVELOPED BY:
KBE MANAGEMENT SERIES 8
P.O. BOX 645 BOYD, TEXAS 76023
PHONE 940-577-4864

PREPARED BY:
TRANSGLOBAL SERVICES, LLC
TBPELS FIRM# 10194246
201 West Wall Street, Suite 320
Midland, TX 79701
(817) 529-1600 ~ Fax (817) 529-1181

ENGINEERED BY:
THOMAS HOOVER ENGINEERING, LLC
P.O. BOX 1866 KELLER, TEXAS 76244 | 817-913-1350 | E-MAIL: tom.thoeng@yahoo.com

FINAL PLAT
OF
LOTS 2-13, BLOCK A,
LOTS 2-26, BLOCK B,
LOTS 1-6 BLOCK C,
LOLA CREEK RANCH, PHASE 2
OF
BLOCKS 88,107 AND 110
IN THE
VAN ZANDT COUNTY SCHOOL LAND SURVEY
ABSTRACT No. 1182
SITUATED IN
WISE COUNTY, TEXAS
BEING
65.150 ACRES
43 RESIDENTIAL LOTS
JULY 2025 PAGE 2 OF 2

21511-PHASE2-2

FILED AND RECORDED

Instrument Number: 202600982

Filing and Recording Date: 01/29/2026 12:14:35 PM Pages: 97 Recording Fee: $405.00

I hereby certify that this instrument was FILED on the date and time stamped hereon and RECORDED in the RECORDS of Wise County, Texas.



Blanca Tuma, County Clerk
Wise County, Texas

ANY PROVISION CONTAINED IN ANY DOCUMENT WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE REAL PROPERTY DESCRIBED THEREIN BECAUSE OF RACE OR COLOR IS INVALID UNDER FEDERAL LAW AND IS UNENFORCEABLE. **DO NOT DESTROY - This document is part of the Offical Record.**

Deputy: didral