

# TIMBER HILLS SUBDIVISION

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

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

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR **TIMBER HILLS SUBDIVISION**, of Grimes County, Texas is made by **LANABI, INC.** a Texas Corporation, (the "Declarant") for the purposes set forth as follows:

### PREAMBLE AND DECLARATION

**WHEREAS**, Declarant owns the real property known as **TIMBER HILLS SUBDIVISION**, (the "Subdivision") which consists of 327.023 acres in the Robert P. Stewart Survey, A-414, and the Elizabeth J. Graham Survey, A-225, both of Grimes County, Texas, and which is described by the map or plat thereof recorded in the Real Property Records of Grimes County, Texas, under County Clerk's File No. 210564 and at Volume 1191, Page 465 ~~Map~~ *Real Property* Records, Grimes County, Texas (the "Plat"); and,

**WHEREAS**, Declarant has created a residential community with designated easements and lots for the benefit of the present and future owners within the Subdivision, and desires to create and carry out a uniform plan for the improvement, development and sale of the lots; and,

**WHEREAS**, Declarant desires to preserve the values of the Subdivision property and to this end desires further to subject the Subdivision to the covenants, Restrictions, easements, charges, and liens hereinafter set forth, each and all of which is and are for the benefit of the Subdivision and the owners thereof; and

**WHEREAS**, Declarant has deemed it desirable for the efficient preservation of the values of lots in the Subdivision to subject and bind the Subdivision to the jurisdiction and assessment of **TIMBER HILLS PROPERTY OWNERS ASSOCIATION** (the "Association") with the power and duty to maintain and administer these Covenants, Conditions and Restrictions (the "Restrictions") of the Subdivision and the power to administer and enforce the Restrictions and to collect and disburse the assessments and charges hereinafter created; and

**NOW, THEREFORE**, Declarant declares that the Subdivision, and such phases or additions thereto as may hereinafter be made, is and shall be held, transferred, sold, conveyed, occupied, and enjoyed subject to the following Restrictions, charges, and liens hereinafter set forth and shall hereafter be subject to the jurisdiction and assessments of the Association:

**ARTICLE I  
PURPOSE**

**TIMBER HILLS SUBDIVISION** is encumbered by this Declaration of Covenants, Conditions and Restrictions for the following reasons: to ensure the best and highest use and most appropriate development of the property; to protect the lot owners against the improper use of surrounding lots; to preserve so far as practicable the natural beauty of the property; to guard against the erection of poorly designed or proportioned structures or improper or unsuitable materials; to encourage and secure the erection of attractive improvements on each lot with appropriate locations; to secure and maintain proper setbacks from streets; and, in general, to provide for development of the highest quality to enhance the value of investment made by owners of lots.

**ARTICLE II  
ADMINISTRATION**

**2.1 TIMBER HILLS PROPERTY OWNERS ASSOCIATION.** There shall be at all times a non-profit entity of perpetual duration known as "Timber Hills Property Owners Association", which shall serve:

- (a) to enforce these restrictions;
- (b) to collect the annual maintenance fee;
- (c) to enforce the liens reserved to secure payment of the annual maintenance fee;
- (d) to contract with and employ such persons and entities; and
- (e) to perform such other acts that shall be necessary and proper to carry out the intent and purposes of these Restrictions.

The Association shall be a "Property Owner's Association" under the terms of Chapter 202, Texas Property Code, as amended. Every owner of a lot (an "Owner") will be a member of the Association; membership shall be appurtenant to and may not be separated from ownership of a lot. On Association matters, and subject to the Bylaws of the Association, Owners shall be entitled to cast no more than one vote for each lot owned. The Association shall adopt bylaws to regulate its business and elections.

**2.2 OPERATION AND MANAGEMENT OF THE ASSOCIATION.** The business of the Association shall be conducted by a Board of Directors who will be selected solely by the Declarant as long as the Declarant owns lots in the Subdivision. After the Declarant sells all the lots owned by the Declarant, then the Declarant shall call for an election of a Board of Directors to be elected by the residents in accordance with the Bylaws of the Association. Once the new Board is so elected, the Declarant shall turn over to the Association all matters and funds and records pertaining to the Association. As long as the Declarant controls the Association, the term "Association" as used in these Restrictions shall mean and include the Declarant.

2.3 **ARCHITECTURAL CONTROL.** The following provisions apply to all lots in the Subdivision:

A. **Architectural Review.** No building shall be erected, placed or altered on any lot, parcel or tract (a "Lot") in this Subdivision until the Owner of such Lot has obtained the specific written approval of the Architectural Control Committee (the "Committee") and obtained a Building Permit from Grimes County, Texas, for such building or alteration, based on the final plans, specifications, or other information required by the Committee and submitted by the Owner. Only the Owner of a Lot may apply for approval of the Committee. The Committee shall review and decide on each Owner's application based on the location of the building or alteration on the Owner's Lot, the design, the exterior methods of construction, the color, texture, grade and quality of all exterior materials used in the construction or alteration, and whether or not the overall appearance of the proposed construction or alteration would be in harmony with other structures in the Subdivision or with the overall plan and scheme of development of the Subdivision. All such decisions by the Committee shall be based solely on the good faith opinion of the members of the Committee. Neither the Association, the Committee, nor any members of the Committee or of the Board of Directors of the Association shall be held or be considered as making any form of representation, warranty or assurance to any contractor, manufacturer, or to the Owner or any other person who may intend to reside in or use such building as to the fitness, suitability, or safety of any building or alteration which may be submitted to the Committee for review. It is understood that the members of the Committee shall be volunteers who shall not be held to any higher standard of knowledge, experience, training, or expertise than any other Owner in the Subdivision.

If the Committee fails to approve or disapprove the design and location of any proposed structure within **30 days** after said plans and specifications have been submitted in writing to it, and if no suit to enjoin the erection of such building or the making of such alterations, or to require the Owner of the Lot to remove such building or alteration, has been commenced prior to the completion thereof, such approval will not be required and this covenant will be deemed to be fully complied with. Notice of disapproval may be delivered in person or by certified mail, addressed to the Owner's last known address, and such notice will set forth in detail the elements disapproved and the reason therefore. Such notice need not, however, contain any suggestions as to the methods of correcting the matters and things disapproved. The decision of the Committee shall in all things be final.

In all applications for the Committee to review proposed construction or alteration, the Owners must expressly covenant and agree that the Owners and their Contractor shall actively protect the streets in the Subdivision from damage by trucks carrying loads in excess of the load limits of such streets, as determined by Grimes County, Texas, or any agency of the State of Texas. If any Owners or their contractor brings or causes to be brought into the Subdivision any trucks carrying excessive loads of construction materials, fill dirt, excavated dirt, bricks or concrete, then the Committee or the Association shall be entitled to stop all further construction activity on the Lot until the Owners, either alone or with all of their contractors, have repaired all damages done to the streets of the Subdivision and have furnished to the Association good and sufficient bond payable to the Association in an amount to be determined by its Board of Directors to provide for repair costs to the Subdivision streets for the next two years following the date the land is delivered to the Association.

B. **Committee Members.** The Committee shall consist of at least **three members**, who shall from time to time be appointed, removed and replaced by a majority of the members of the Board of Directors of the Association. Each member of the Committee must own at least one Lot in the Subdivision. No member of the Committee may vote on or participate in the consideration of an application pertaining to a Lot in which such member may own or have a substantial conflicting interest. For the purposes of these Restrictions, a conflict of interest would arise if a member either owned an interest in a Lot or if any determination by the Committee would have a direct, financial impact on a Lot owned by the Committee member.

C. **Committee Procedures and Charges.** The Committee shall make in its discretion all determinations called for in these Restrictions. Such Committee shall not be entitled either to file suit to enforce these restrictive covenants or to deny or withhold approval of any application for its consideration for any Lot solely because the Owner of such Lot may possibly be in violation of these restrictive covenants at a Lot that is different from the Lot under consideration at any time. The Committee may charge each applicant a reasonable fee to cover its normal and usual expenses, but the amount of such fee shall be determined by the Board of Directors of the Association. As a part of each application for new home construction, the Committee may require the Owner of the Lot to deposit with the Association a bond or a cash deposit in an amount determined by the Board of Directors to be reasonably sufficient to pay the costs of a resurvey, if needed, the costs of cleaning up construction trash and debris at the conclusion of construction, and the costs of leveling ruts and repaving or patching roads for damages caused by heavy vehicles at the building site.

D. **Variances.** The Committee, joined by a **two-thirds** majority of the members of the Board of Directors of the Association, may grant or permit variances of any of the matters provided by these restrictions for its review and determination, provided however, no variance shall permit or allow any Lots to be subdivided, any encroachment over any easements or boundary lines, allow any nuisance, defined below, to exist on any lot, or to be used for or to be burdened or encumbered with any easement or right-of-way into any tract or parcel of land outside the boundaries of the Subdivision, unless and until such easement or right-of-way shall be specifically approved by the Developer or the Board of Directors of the Association. No variance shall be granted which would operate as a nuisance to any other Owner of a Lot in the Subdivision. All variances shall be in writing and shall be filed in the Real Property Records of Grimes County, Texas.

**ARTICLE III  
RESTRICTIVE COVENANTS FOR USE OF LOTS**

3.1 **RESIDENTIAL LOTS.** All Lots in the Subdivision shall be known and designated as "residential Lots", shall be used for residential purposes only, and shall be subject to all Restrictions, reservations, protective covenants, limitations and conditions of this document, including the following:

A. **Use.** No dwelling shall be erected, altered, placed or permitted to remain on any Lot other than a single residence, designated and constructed for use by a single family, together with such servants' quarters, garages, barns, and other structures as may be suitable and proper for the use and occupancy of said residents as a single family dwelling. No residence constructed on any

Lot shall be converted into or thereafter used as duplex, apartment house or any other form of multiple family dwelling. No residence or combination of residences on separate Lots shall be used or be advertised for use as hotels, "bed and breakfast" accommodations, tourist courts or tourist cottages, or as places of abode for transient persons.

B. **Area.** No dwelling shall be erected on any Lot, unless such dwelling shall have an interior living area of not less than **1700 square feet**. Dwellings may be single story, two-stories or one and one-half stories, and no dwelling shall be constructed of more than two stories in height. The square footage as set forth herein shall be exclusive of garages, porches, servants' quarters or other appendages. The "living area" of a home shall be that area served by the home's heating and air-conditioning equipment.

C. **Commercial Use Prohibited.** No residential Lot shall be used for any business purpose except that an Owner may maintain a "home office" provided there is no external indication that any business is being conducted on a Lot. An external indication of a business includes any one or more of the following:

- (1) employees, who do not live at the home, working at the home;
- (2) deliveries at the home of materials, products or supplies;
- (3) customers, salespersons or other agents of the business come to the home to purchase, deliver or pick up business materials, products, advertising materials, of any form, finished or not;
- (4) commercial vehicles are regularly parked at the home;
- (5) commercial equipment and machinery used in the business is used at the home;
- (6) the business is advertised in any medium showing the home address as a location of the business

Also, all model homes or homes used as temporary sales offices must be offered for sale, and such homes may not be used as such for more than **six months** after such homes have been completed.

D. **Employees.** Nothing in these Restrictions shall operate to prohibit any Owner from employing domestic, housekeeping, grounds-keeping and stable-keeping personnel to work at the Owner's home.

E. **Construction.** All materials used in the exterior construction of any residence or other structure and all methods of constructing foundations must be approved in writing and in advance by the Committee before any structure may be erected. Only new construction materials shall be used except for used brick which shall be permitted only as approved by the Committee. Buildings shall be built on a slab, or reinforced solid concrete beam foundation, or reinforced concrete block beam foundation. In no event shall any existing house, modular, or "manufactured" home built off the site be moved or installed on any Lot or Lots in the Subdivision. The exterior construction of any house, be it the primary residence, garage, porches, or appendages thereto, shall be completed within **ten months** after the start of the foundation, unless extended by the Committee

in writing. Foundation designers must take special precaution if any home could flood from steep slopes or nearby ditches.

F. **Set Back of Buildings.** All buildings and structures must be constructed, placed and maintained within the following set-back or building lines:

- Front (side facing Amelia Drive,  
or the Lots facing Fletcher Street).....50 feet
- Side.....25 feet
- Rear.....30 feet
- Side Adjoining FM 1485.....30 feet

In addition, no home or other improvement, whether permanent or temporary, may be placed to any extent in any drainage easement, utility easement, access easement or other easement or other use shown on the recorded plat or required by any governmental entity having jurisdiction of such matters. The Association may, by its Rules and Regulations, establish additional set back lines for other structures, such as recreational facilities (including pools, tennis courts and the like), animal quarters, barns, pens and other unusual control structures.

G. **Fences.** All fences shall be constructed of new materials and shall be of the designs permitted in the Fence Criteria for the Subdivision, set forth below. No perimeter fence may be installed outside the property lines of a lot, as shown on the Plat. The Committee may permit construction of fences to be built which are part of the architectural design of the main structure and are within the building setback lines for that Lot. All fences or walls located on his respective Lots are to be maintained at Owners' expense.

The Committee may grant variances to the aforesaid composition requirements for fences and the aforesaid height or setback limitation in connection with retaining walls.

H. **Utility Easements.** No permanent fencing may be erected within any utility easements. For any Lot fully enclosed by fences, such fences erected across any utility easement shall contain a **twelve-foot** wide gate or two each **six-foot** wide gates, or one **twelve-foot** removable section which will be kept unlocked for access by public utility companies.

I. **Driveways.** For any Lot, driveways may be constructed across utility easements, but only at a location and in a manner that shall not interfere with or interrupt utility service for any home constructed on any other Lot. The driveway turnout shall be constructed in such manner as to provide an attractive transitional radius from the curb and gutter into the driveway entrance and shall prevent escape of drainage water from the street onto any Lots. Minimum driveway culvert shall be **18 inches** in diameter and may be larger as needed for drainage.

J. **Environmental Maintenance.** All improved yards and lawns shall be kept neat and well maintained and all grass, weeds, and vegetation on each Lot shall be kept mowed at regular intervals. Lawns and landscaping within **100 feet** of the main residence on any Lot **must** be properly maintained; fences must be repaired and maintained, and no objectionable or unsightly usage of Lots will be permitted which is visible to public view. Building materials shall not be stored on any Lot, for more than **30 days** and any excess materials not needed for construction and any building refuse shall promptly be removed from each Lot or stored behind a vegetative screen or board fence or other obstruction that will fully block visibility of such materials from the Subdivision road.

K. **Vehicles.** All vehicles parked on any lot within view of any street must be licensed and operable at all times. No motor home, tent, boat, marine craft, hovercraft, recreational vehicle, camper body, travel trailer, or pick-up trucks, shall be used as a residence on any Lot. Large commercial vehicles, "eighteen wheelers" and the like, shall not be allowed at any time on any Lot. Wrecked, junked, or inoperable vehicles may be kept, parked, stored, or maintained only in a screened area of a Lot so that such vehicles may not be visible from any street of the Subdivision. No stripped down, wrecked, junked, or inoperable trailers, boats, recreational vehicles or motor vehicles, shall be kept, parked, stored, or maintained on any Lot. No dismantling or assembling of a motor vehicle, boat, trailer, any truck, or any other machinery or equipment shall be permitted in any driveway or yard visible from any street. The Committee shall have the absolute authority to determine from time to time whether a vehicle is operable and adequately screened from public view. Upon an adverse determination by the Committee, all affected vehicles and accessories shall be removed or otherwise brought into compliance with this paragraph.

L. **Offensive Activities.** No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Owners, Lots, or the Subdivision.

No Owner or occupant shall perform any work that will impair the structural soundness or integrity of another residence or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other homes or their Owners or residents. No Owner may install any gasoline storage tanks on any Lot.

No exterior lighting of any sort shall be installed or maintained on a Lot where the light source is offensive or a nuisance to the other Owners or Lots (reasonable security, landscape, or tennis court lighting is permitted with the approval of the Committee).

No exterior speakers, horns, whistles, bells, or other sound devices (except security devices such as entry door and patio intercoms used exclusively to protect the Lot and improvements situated thereon) shall be placed or used upon any Lot.

M. **Responsibilities of Lot Owners.** As part of the construction of their homes, the Owners of Lots in the Subdivision shall have primary responsibility for completing, at their own expense, all installations and hookups for sanitary sewer service and all extensions of such service, any fences along the Subdivision streets, all driveway culverts, and all water and wastewater taps.

N. **Roads Adjoining Subdivision.** All Lot Owners shall have access to their Lots only over and across the roads shown within the Subdivision on the recorded Plat and named "Amelia Drive" or "Fletcher". No Owner shall have access to or be entitled to use, for any purpose, any other road, street or highway that may border or run adjacent to the Subdivision for any length, regardless of whether or not such Lot Owner has permission of the Owner of such adjoining road or right-of-way. No Owner may permit or grant access or any right-of-way over or across any portion of that Owner's Lot for any purpose, unless the Owner first obtains specific, written approval for such access or right-of-way from the Association. This prohibition and requirement includes access to or from any Lot regardless of whether such right-of-way involves any other Subdivision Lot or any tract or parcel of land inside or outside of the Subdivision.

3.2 **GARBAGE AND TRASH DISPOSAL.** For all Lots in the Subdivision, all household garbage, trash, and landscaping waste shall be removed from the Subdivision and properly and lawfully disposed of at least once a week. No Lot shall be used to store rubbish, trash, garbage, or other waste. All household garbage and trash shall be kept in outside containers, and all such containers shall be kept closed and clean at all times. Household garbage and trash shall not be burned under any circumstances. Cut limbs, branches and other landscaping waste may be burned only if allowed by Grimes County, Texas. Except for the days of garbage pick-up, all household garbage and trash containers shall be kept out of view from the roadways.

### 3.3. NUISANCES.

A. **Definitions.** At all times, each Lot in the Subdivision, shall be kept free of nuisances. The word "nuisance" means and includes, but is not limited to the following:

- (1) objectionable, detrimental, offensive, dangerous, or unattractive conditions, as determined by the Board of Directors of the Association in its discretion;
- (2) open pits, abandoned wells, and ponds that are not cared for and which become havens for insects and other pests;
- (3) signs, advertisements, or billboards that have not been approved in advance by the Committee;
- (4) privy, cess pool, outdoor toilets, (except portable toilets used only during times of construction on a lot), untreated septic, and gray water drainage;
- (5) large animals, livestock, for which the adults of any species may be 800 pounds or larger, may be kept, raised, or bred on any Lot, except the following:
  - (i) no more than a total of **one** of such large animal per acre shall be permitted on any Lot. This includes any breed of grazing animals, including horses, cattle, sheep, and other common farm animals, provided that such animals are properly quartered and fenced, as provided elsewhere in this Declaration; no more than **two** per acre of any smaller grazing animals, the adults being less than 150 pounds, such as sheep and goats, may be kept on a Lot. If an Owner keeps no

more than **one** large grazing animal per acre on a Lot, then such Owner may not be entitled to keep more than **one** smaller grazing animal per acre on such Owner's Lot.

(ii) all other breeds and species of animals and fowl that are not named above, including all breeds that are wild, (specifically including "pit bull" dogs) dangerous, ungovernable, highly odiferous, or unusually noisy shall not be permitted on any Lot unless the Owner obtains specific, advance approval of both the Committee and the Board of Directors of the Association;

(iii) the only exception to the above limitations shall be that for homes where a "4H" student may reside, such student may have one large animal as a 4H project, even a hog, but only during the time such student is actively engaged in such 4H project.

(6) swimming pools, whether above or below ground, that are not completely enclosed by a fence with a security gate capable of keeping out small children and which have not been specifically approved in advance by the Committee;

(7) explosives, fireworks, discharge of guns, pistols, cannons, or firearms of any kind or character, sirens, horns, or other equipment designed to make loud noises (except for ordinary household security alarms which are permitted);

(8) building any mound, levy, swale, wall, or other object that interferes with the natural drainage patterns within the Subdivision unless such object has been approved in advance by the Committee;

(9) construction equipment and machinery, trucks larger than one-ton, tractor-trailer rigs, commercial trucks, and delivery vehicles not being actively used in home construction and street repair, parked on the streets of the Subdivision or on Lots overnight or for long periods of time without being screened from view from the Subdivision roads; and

(10) use or operation of heavy equipment and vehicles over the roads of the Subdivision in a manner likely to cause damage to such roads by spilling dirt, sand, gravel, or other construction material and debris on the Subdivision roads, and operating heavy equipment, trucks, and other vehicles which exceed the load limits prescribed by either Grimes County, Texas, the State of Texas or by any other agency responsible for the roads in the Subdivision.

## B. Abatement of Nuisances.

(1) **Entry.** If the Association determines in its discretion that a nuisance, as defined above, exists on any Lot, the Association shall give immediate written notice of such condition to the Owner, who must remove such nuisance at no cost to the Association within **15 days** after such notice is mailed. If the Association determines in its discretion that any nuisance poses an immediate and substantial risk of harm to the persons or the property of any one or more of the other residents of the Subdivision, or if the Lot Owner fails for any reason to remove the nuisance within the time provided by the Association's written notice, then the Association shall be entitled to enter the Lot and, if necessary, any residence or structure on the Lot, and remove and dispose of the nuisance,

without being guilty of trespass, conversion, or any tort or other civil wrong, as long as the Association acted in good faith and not in any arbitrary or capricious nature or manner. No Lot Owner shall be entitled to require the Association to take any action to abate or remove a condition that may be a nuisance if the Association has determined in its discretion that such condition is not of a nature that requires its entry onto a Lot and removal of a nuisance.

(2) **Costs and Expenses.** The Owner of any Lot having the nuisance shall be liable to the Association for its reasonable costs and expenses in removing and abating the nuisance, including its reasonable attorney's fees. To the extent necessary to carry out this provision, the Association shall have an easement on, over, and across any Lot for the purpose of abating and removing any nuisance, in addition to all other rights at law or equity.

3.4. **EASEMENTS AND ACCESS.** Easements for installation and maintenance of access, utilities and drainage facilities are reserved as shown on the recorded Plat. Within these easements, no structure, planting, fence, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or in the case of drainage easements, which may change or impede the direction of flow of water through drainage channels in such easements. The easement area, if any, of each Lot, and all improvements in such area shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. Neither the Association, nor any utility company using such utility easements, shall be liable for any damages done by them or by their assigns, agents, employees, or servants to shrubbery, drives, landscaping or other property of the Owners situated on the land covered by said easements.

There is hereby created a right of ingress and egress across, over, and under utility easements set forth on the Plat in favor of entities providing utility services for the Lot Owners, including water, sewer, natural gas, electricity, telephone, cable and related services. All utility services shall be provided solely by underground lines to the Lots.

Each Lot is conveyed subject to all easements, conditions, and reservations shown on the Subdivision Plat and each Owner shall take notice of all such easements, conditions, and reservations. No Owner shall maintain any condition or improvements in any platted easement which will significantly interfere with the intended use of the easement.

Easements for drainage throughout the Subdivision are reserved as shown on the Subdivision Plat. No Owner of any Lot in the Subdivision may perform or cause to be performed any act which would alter or change the course of such drainage easements in a manner that would divert, increase, accelerate, or impede the natural flow of water over and across such easements. More specifically and without limitation, no Owner or resident of a residence may:

(1) alter, change, or modify the existing natural vegetation of the drainage easements in a manner that changes the character of the original environment of such easements;

(2) alter, change, or modify the existing configuration of the drainage easements, or fill, excavate, or terrace such easements, or remove trees or other vegetation therefrom without the prior written approval of the Committee and the Engineer for Grimes County, Texas;

(3) construct, erect, or install a fence or other structure of any type or nature within such drainage easements;

(4) permit storage, either temporary or permanent, of any type upon or within such drainage easements; or

(5) place, store, or permit to accumulate trash, garbage, leaves, limbs, or other debris within or upon the drainage easements, either on a temporary or permanent basis.

The Committee may establish a drainage plan for the Subdivision or any part of the Subdivision which the Committee may determine needs a Grading Plan. If such plan is adopted, then the plan shall apply to all future construction or landscaping in the Lots involved.

The failure of any Owner to comply with the provisions of this Article shall in no event be deemed or construed to impose liability of any nature on the Association or the Committee, and neither such Committee nor the Association shall be charged with any affirmative duty of police, control, or enforce such provisions.

**3.5. TEMPORARY STRUCTURES AND RESIDENCES.** For all Lots in the Subdivision, no trailer, mobile home, manufactured home, tent, camper, or shack shall be moved onto or built upon such Lot.

**3.6. ACCESS.** For all Lots in the Subdivision, no driveways or roadways may be constructed on any Lot in this Subdivision that will furnish access to any adjoining Lots or property without the express written consent of the Committee.

**3.7. CULVERTS.** For all Lots in the Subdivision, all drain tiles and culverts or culverts in any drainage ditch (including road ditches) shall have inside diameter of at least **18 inches**, and such tiles or culverts must be approved, in advance of installation, by Grimes County.

**3.8. UTILITIES.** The Developer shall install underground lines for water and overhead electrical service within the utility easements shown on the Plat, that is, running along Amelia Drive and Fletcher Street. In order to obtain such utility services, Lot Owners must contract with the utility providers for taps into the lines within the utility easement, at the sole cost of the Lot Owner.

**3.9. RESUBDIVISION.** No Lot may be subdivided.

**3.10. FIREARMS.** On all Lots, the use or discharge of firearms is expressly prohibited within the Subdivision. However, guns using compressed gas of any form, such as pellet guns or "BB" guns are permitted.

3.11. **MATERIALS STORED ON LOTS.** Any building material or debris of any kind shall be placed or stored upon any Lot at a location fully shielded from public view, such as by a solid board fence or similar obstruction to view, except during construction of permanent improvements.

**ARTICLE IV  
MAINTENANCE FUND**

4.1 **MAINTENANCE FUND.** The following charges and obligations apply to all Lots in the Subdivision, including residential and reserved.

A. **Determination.** Each Lot shall be subject to an annual maintenance fee in an amount to be determined by the Developer while the Developer owns any Lot in the Subdivision, if any, and subsequently by the Board of Directors of the Association by its annual budget. Not later than June 1 preceding the beginning of any fiscal year, the Board shall notify all Owners by mail of the amount of the maintenance fee for each upcoming fiscal year. The annual maintenance fee shall be collected and disbursed by the officers of the Association.

B. **Collection.** All past due maintenance charges shall initially bear interest from their due date at the rate of 16% per annum until paid, provided however, the Board of Directors of the Association may set a lower rate for any fiscal year by an appropriate resolution adopted prior to the beginning of such year. Such charges shall be a covenant running with the land, and to secure payment thereof, a Vendor's Lien is hereby retained by the Association, upon the property herein conveyed, subject and inferior, however, to a purchase-money lien or construction money lien, or both.

C. **Adjustment.** All charges of the Association may be adjusted at any time on any Lot by the Board of Directors as may be required by any "Housing Authority" or "Regulating Agency" or "Governmental Agency" to meet any requirements or rules of such Agencies.

D. **Lien.** There is hereby reserved, set over, and transferred into the Association a maintenance lien upon each Lot in the Subdivision to secure payment of the annual maintenance assessment. Such lien automatically attaches to and applies against each Lot and shall remain first, primary, and superior to all titles, liens, and interests in each Lot in the Subdivision, except that such maintenance lien shall be subordinate only to any bona fide purchase money vendor's lien or builder's and mechanic's lien for the construction upon any Lot of a dwelling that has been approved in advance by the Committee. Such lien shall secure payment of the annual maintenance assessment, and all interest, and reasonable attorney's fees to become due and payable to the Association for any Lot. To the extent permitted by law, such lien shall remain superior to each Lot Owner's homestead rights under the statutes and constitution of the State of Texas.

E. **Foreclosure.** At the election of the Association, the lien so established may be foreclosed upon either by suit for judicial foreclosure, or, after notice of delinquency to the Owner of any Lot, as and in the same manner as is provided for the foreclosure of a mortgage upon real

property under the laws of the State of Texas, just as though the Association had retained a vendor's lien and possessed a deed of trust and note against said Lots. Any such action of foreclosure will entitle the lienholder to reasonable attorney's fees and other allowed costs and penalties. For each such foreclosure, the Board of Directors shall appoint a Trustee to exercise the power of sale.

4.2. **APPLICATION OF FUNDS.** Funds arising from such charge shall be applied, so far as sufficient, toward the common good of the community, civic betterment, and public recreational purposes (but not by way of limitation) of the Subdivision and its residents as follows:

- A. To render constructive civic action for the promotion of the social welfare of the community and of the citizens of the Subdivision, to inculcate civic consciousness by means of active participation in projects which will improve the community, state, and nation.
- B. To promote and provide municipal services and educational and recreational services and facilities for residents of the Subdivision.
- C. To acquire, maintain, and construct buildings and property for public services and recreational facilities.
- D. To do any other thing necessary or desirable or of general benefit to the community.

**ARTICLE V  
GENERAL PROVISIONS**

**5.1. DURATION OF RESTRICTIONS.**

A. **Term.** These Restrictions shall become effective for all property in the Subdivision when they are filed for record in the Real Property Records of Grimes County, Texas and shall remain in full force and effect until midnight May 30, 2026. Thereafter these Restrictions shall be automatically renewed for additional successive periods of **ten** years each unless the Owners of at least a majority of the Lots in the Subdivision shall, by instrument in writing duly placed of record before the end of any such **ten year** period, elect to revise or amend or terminate all or any part of these Restrictions.

B. **Amendment During Term.** At any time after the effective date, other than the dates specified above, 66.66% of the members of the Association's Board of Directors and the Owners of 66.66% of the Lots in the entire Subdivision may amend or change these restrictions by their written and signed ballots. For any such amendment to become effective all voting by the Board of Directors and the Owners must be completed and recorded within the same twelve-month period.

5.2. **MISCELLANEOUS PROVISIONS.** The following provisions apply to all Lots in the Subdivision including residential and reserved.

A. **Benefit.** All covenants and Restrictions are for the benefit of the entire Subdivision and shall be binding upon and enforceable by every purchaser, that Purchaser's successors, heirs and assigns.

B. **Severability.** Invalidation of any one of the covenants or restrictions by judgment of any court shall in no way affect any of the other provisions, which shall remain in full force and effect.

C. **Application.** All of the Restrictions, easements and reservations herein provided and adopted as a part of said Subdivision shall apply to each and every Lot and when such Lots are conveyed the same shall be conveyed subject to such Restrictions and reservations as contained herein, and also such limitations as are shown on the map or plat of this Subdivision as recorded in the Map or Plat Records of Grimes County, Texas. When Lots with such reservations, easements and Restrictions are so referred to by reference thereto in any such deed or conveyance to any Lot or Lots in said Subdivision the same shall be the same force and effect as if said Restrictions, covenants, conditions, easements, and reservations were written in full in such conveyance, and each contract and deed shall be conclusively held to have been so executed, delivered, and accepted upon the express conditions, reservations, easements, and Restrictions as herein stated and set forth.

D. **Enforcement.** Enforcement of these Restrictions and covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate the same, either to restrain or prevent such violation or proposed violation by an injunction, either prohibitory or mandatory, or to obtain any other relief authorized by law. Such enforcement may be by the Owner of any of said Lots or by the Association, or its successors or assigns.

## ARTICLE VI FENCE CRITERIA

6.1. **PERMITTED MATERIALS.** Lot Owners may, at their election and expense, install fences along the perimeter of their Lots and they shall continuously maintain any fence so constructed so that the fence appears cared for. Fences constructed along the front of any Lot, that is along the right-of-way of Amelia Drive or Fletcher Street, may not be made entirely of wire of any kind, but must be constructed of welded pipe, wrought iron pickets and posts, or posts and rails, whether of treated pine, plastic or split rails, and wire may be incorporated into or added to the front fence in order to best protect animals and pets on the property. Other than the front fence, any fence constructed on any side Lot line or rear line may be made of any appropriate fence material, and of any height.

6.2. **DETERMINATION OF FRONT PROPERTY LINE.** For the purpose of these fence criteria, the front of any Lot is the boundary that abuts a Subdivision street. For any Lot that borders two Subdivision streets, then the front shall be the shorter property line that abuts a Subdivision street and the main residence on such Lot shall face the front property line. For a Lot that abuts a cul-de-sac, the front Lot is the line that borders the cul-de-sac.

APPROVED AND ADOPTED this 10<sup>th</sup> day of October, 2006, in Grimes County, Texas.

LANABI, INC.

BY: *Jack Ford*  
JACK FORD, AUTHORIZED AGENT

THE STATE OF TEXAS  
COUNTY OF GRIMES

This instrument was acknowledged before me on this 10<sup>th</sup> day of October, 2006, by **JACK FORD, AUTHORIZED AGENT** of **LANABI, INC.**, on behalf of such company.



*Mary F. Runnels*  
Notary Public - STATE OF TEXAS