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**SECOND AMENDMENT TO THE DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
LAKESIDE AT HEATH PROPERTY OWNERS ASSOCIATION, INC.**

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

INTRODUCTORY PROVISIONS

WHEREAS, the Declaration of Covenants, Conditions and Restrictions for Lakeside at Heath Property Owners Association, Inc. was filed on March 31, 2015, as Instrument No. 2015-0005423 in the Official Public Records of Kaufman County, Texas (“*Lakeside at Heath Declaration*”); and

WHEREAS, the Lakeside at Heath Declaration was amended by virtue of that certain First Amendment to the Declaration of Covenants, Conditions and Restrictions for Lakeside at Heath Property Owners Association, Inc. (“*First Amendment*”) filed on February 22, 2017, as Instrument No. 2017-0003870 in the Official Public Records of Kaufman County, Texas (“*First Amendment*”); and

WHEREAS, the Lakeside at Heath Declaration affects certain tracts or parcels of real property located in Kaufman County, Texas, more particularly described in the Lakeside at Heath

Declaration, including any amendments and supplements thereto, and is incorporated herein by reference for all purposes (“*Property*”); and

WHEREAS, Article 15, Section 15.2 of the Lakeside at Heath Declaration may be amended or modified and approved by Owners of at least a majority of the Lots and by Owners representing at least a majority of the total allocated votes; and

WHEREAS, a meeting of the Members of Lakeside at Heath was held on the _____ day of _____, 2023, and the following amendments to the Lakeside at Heath Declaration were approved by the affirmative vote or written consent of at least a majority of the Lots and by Owners representing at least a majority of the total allocated votes.

NOW, THEREFORE, the Lakeside at Heath Declaration is hereby amended as follows:

- Article 6, Section 6.21.5 of the Lakeside at Heath Declaration is hereby amended and shall read, in its entirety, as follows:

Section 6.21.5. Leasing and Occupancy Restrictions. In order to preserve the quality of life of Owners and to promote the Leasing of a Lot by responsible individuals, a Lot may only be Leased in accordance with the following restrictions:

(a) Residential Purposes. Each Lot shall be used and occupied for single-family, private residential purposes only and no trade or business may be conducted in or from any Lot, except as permitted by this Section 6.21.5. For purposes of this Declaration, the phrases “single-family private residential use” and “residential purposes” are intended to prohibit rentals for any term less than twelve (12) months. Single-family private residential use shall not include either of the following: (i) operating a rooming or boarding house within a Lot, for any period of time; (ii) Leasing by the Owner of less than the entire Lot to others as a separate house-keeping unit, for any period of time.

Upon acquiring an ownership interest in a Lot, the Owner may not Lease the Lot until the expiration of twelve (12) months from the date of recording the deed to the Lot. After the expiration of the twelve (12) month period, the Owner may lease the Residence subject to the other terms contained in this Section 6.21.5. From

the date of the adoption of this Second Amendment, no more than five percent (5%) of the total Residences located in the community may be leased at any point in time, except in cases of hardship as approved by the Board. The goal is to preserve the community as one of predominantly owner-occupied Residences. An Owner seeking to lease his or her Residence must notify the Board in writing of his or her desire to lease the Residence, and Owners may lease on a first come, first serve basis. Upon the expiration of a lease term, the Owner of the Residence must again notify the Board of his or her desire to renew the lease on the Residence. Existing leases will be given first priority to renew ahead of new leases.

Additional Definitions:

(i) **Dedictory Instruments** - “Dedictory Instruments” means each governing instrument covering the establishment, maintenance, and operation of the Association. This term includes the Declaration, Bylaws, policies, and rules and regulations of the Association, and all amendments thereto.

(ii) **Effective Date** - “Effective Date” shall mean the date an instrument containing this Article 6, Section 6.21.5 is recorded in the Official Public Records of Kaufman County, Texas.

(iii) **Landlord** - “Landlord” means the Owner Leasing a Lot to a third-party, even if that Owner has a management company that is in charge of Leasing and/or managing the Lot.

(iv) **Lease** - “Lease” includes any written or oral agreement between a Landlord and a Tenant that establishes or modifies the terms, conditions or other provisions regarding the use and occupancy of the Lot and the Residence thereon.

(v) **Leasing** - “Leasing” is defined as the regular, exclusive occupancy of a Lot by any person other than the Owner for which the Owner, or any designee of the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. If the Lot is owned by a trust and the beneficiary of the trust is living in the residence, that Lot shall be considered Owner-occupied rather than Leased.

(vi) **Lessee** - “Lessee” shall be considered the same as Tenant for purposes of the Declaration.

(vii) Lease to Purchase Agreements & Contracts for Deeds - Shall be considered the same as Leasing for purposes of the Declaration.

(viii) Renting - "Renting" shall be considered the same as Leasing for purposes of the Declaration.

(ix) Tenant - "Tenant" means the person(s) authorized by the Lease to occupy the Lot, which would include the named Lessee(s). There may be more tenants than Lessees for a Lot unless the context indicates otherwise.

(b) Registration, Compliance, and Notice of Intent to Lease. Whenever the Owner of a Lot has received a bona fide offer to Lease the Lot and desires to accept such offer, the Owner shall give the current management company written notice of the desire to accept such offer and submit to the Board, at the Owner's sole cost and expense, a Tenant Information Form which will include, but is not limited to, the following information:

- (i) The commencement date and term of the Lease;
- (ii) The make, model, and license plate number of each vehicle to be kept on the Property;
- (iii) The name, telephone number, email address, and current address of the prospective Lessee(s) and each prospective adult occupant (over age 18);
- (iv) The number of persons that will occupy the Lot; and
- (v) A written statement certifying that: (1) a criminal background report has been obtained by the Owner on each prospective adult occupant of the Lot and (2) that each prospective adult occupant of the Lot has not violated paragraph (e)(ii) and (iii) below.

The Association may charge a reasonable administration fee concerning the above as established by the Board and the Board is authorized to establish other such policies and procedures to register Lease arrangements as the Board so determines.

(c) Qualifications of Prospective Occupants and Lessees.

- (i) Occupancy. The total number of occupants allowed to reside in or occupy a Lot shall not exceed the maximum

number of occupants allowed in the Lot pursuant to any ordinance, code or regulation of Kaufman County or State of Texas.

- (ii) **Certain Criminals Prohibited.** Owner may not Lease to or allow any person to reside in or occupy a Lot who has been convicted of any felony crimes involving violence, crimes against persons; use of firearms; sex crimes; illegal drugs; robbery; aggravated robbery; murder; criminal gang activity; discharge of firearms; gambling; manufacture, sale or use of drugs; manufacture or sale of alcoholic beverages; prostitution; theft; burglary; or larceny; or any crime involving a minor.*
- (iii) **Sex Offenders Prohibited.** Owners may not lease to or allow any person to reside in or occupy a residence who is a registered sex offender. For purposes of this Section 6.21.5, a “sex offender” is a person who is required to register as either a Level 3 (High) or Level 2 (Moderate) sex offender pursuant to Chapter 62 of the Texas Code of Criminal Procedure or pursuant to any other law of the State of Texas, or any municipal or county ordinance, or any other state or federal law or regulation.*

THESE REQUIREMENTS DO NOT CONSTITUTE A GUARANTEE OR REPRESENTATION THAT LESSEES OR OCCUPANTS RESIDING WITHIN THE LAKESIDE AT HEATH SUBDIVISION HAVE NOT BEEN CONVICTED OF A CRIME OR ARE NOT SUBJECT TO DEFERRED ADJUDICATION FOR A CRIME.

- (d) **Rejection of Lease by Board of Directors.** If the terms of the Lease and/or the Lessee(s) or occupants do not meet the standards and criteria described in this Section 6.21.5, then the Lease is rejected and the Board shall notify the Owner, within ten (10) business days after the decision is rendered, in writing of the rejection of the Lease. Owners shall not Lease to or allow anyone to reside in the residence who does not meet the standards and criteria set out above.*
- (e) **Hardship.** Notwithstanding any provision to the contrary, the Board shall be empowered to allow Leasing of one or more Lots, as determined solely by the Board, upon written application by an Owner to avoid undue hardship. By way of illustration and not by limitation, circumstances which would constitute undue hardship are those in which (i) an Owner must relocate and cannot, within ninety (90) days from the date the Lot was placed on the market, sell the Lot while*

offering it for sale at a reasonable price no greater than its current appraised market value; (ii) the Owner dies and the Lot is being administered by his or her estate; (iii) the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Lot; (iv) the Lot is to be Leased to a member of the Owner's immediate family, which shall be deemed to encompass children, grandchildren, grandparents, brothers, sisters, parents and spouses; (v) deployment or activity military duty status in any branch of the United States of America military; or (vi) the Owner sells the Lot and enters into a rent or leaseback agreement for a period not to exceed ninety (90) days from the date of sale. Those Owners who have demonstrated that the inability to Lease their Lot would result in undue hardship and have obtained the requisite approval of the Board may Lease their Lot for such duration as the Board reasonably determines is necessary to prevent undue hardship. Requests for hardship exemptions shall be reviewed by the Board on a case-by-case basis.

- (f) Contents of Lease. Each Owner acknowledges and agrees that any Lease of his or her Lot shall be deemed to contain the following language and that if such language is not expressly contained in the Lease, then such language shall be incorporated into the Lease by existence of this Section. In addition, the terms and requirements contained herein automatically become a part of any Lease and/or an addendum to the Lease. These provisions shall also be attached to any Lease as an addendum and again, are a part of the Lease regardless of whether or not physically attached to the Lease. Any Lessee, by occupancy of a Lot, agrees to the applicability of this Section and incorporation of the following language into the Lease:*

The Lessee shall comply with all provisions of the Dedicatory Instruments and shall control the conduct of all other occupants and guests of the Leased Lot in order to ensure their compliance. Any violation of the Dedicatory Instruments by the Lessee, any occupant, or any person living with the Lessee, is deemed to be a default under the terms of the Lease and authorizes the Owner to terminate the Lease without liability and to evict the Lessee in accordance with Texas law. The Owner hereby expressly delegates and assigns to the Association, acting through the Board, the power and authority of enforcement

against the Lessee for breaches resulting from the violation of the Dedicatory Instruments, including the authority to pursue eviction proceedings on behalf of the Owner.

- (g) *Compliance with Dedicatory Instruments.* *Each Owner shall cause all occupants of his or her Lot to comply with the Dedicatory Instruments and shall be responsible for all violations and all losses or damage resulting from violations by such occupants, notwithstanding the fact that such occupants of the Lot are fully liable and may be personally sanctioned for any violation. The Owner shall provide the Lessee a copy of the Dedicatory Instruments. In the event that the Lessee, or a person living with the Lessee, violates the Dedicatory Instruments for which a violation fine is imposed, such fine shall be assessed against the Owner. The Owner shall pay the violation fine(s) upon notice from the Association.*
- (h) *Grandfathering.* *With respect to a Residence which is subject to a Lease as of the Effective Date, the Owner's only obligation is to complete the Tenant Information Form. Notwithstanding this exemption for Residences already subject to a Lease, upon termination, extension, or renewal of that Lease, the Owner must comply with this Article 6. All Owners as of the Effective Date are exempt from the 5% leasing or rental cap. At the time of this Amendment, the subdivision has at least 5% of all Residences leased, thus reaching the maximum capacity for any new rentals. At the time of this Amendment, no new Residences will be approved for rental unless and until such time as the number of rentals in the subdivision is below the 5% cap. All new Members after the adoption of the amendment must comply with the entirety of this Section.*
- (i) *Noncompliance.* *For any Lease of a Lot entered into or renewed after the Effective Date, the Association shall have the power and authority to enforce this Article 6 by any means available at law or in equity, including, but without limitation, levying violation fines and filing suit for necessary damages, including injunctive relief. EACH OWNER HEREBY APPOINTS THE ASSOCIATION AS ITS ATTORNEY-IN-FACT FOR THE PURPOSE OF TAKING LEGAL ACTION TO DISPOSSESS OR OTHERWISE REMOVE THE OCCUPANTS FROM HIS OR HER RESIDENCE AS NECESSARY TO ENFORCE COMPLIANCE WITH THIS ARTICLE 6. Each Owner shall fully and truthfully respond to any and all requests by the Association for information regarding the occupancy of his or her Lot which, in the sound business judgment of the Board, are reasonably*

necessary to monitor compliance with this Article 6.

Notwithstanding any proposed fine stated in the Association's enforcement or fine policy, violations of this Article 6 shall be levied as follows:

- *Initial fine of two hundred and fifty dollars (\$250.00)*
- *Subsequent daily fines of one hundred dollars (\$100.00) levied no earlier than ten (10) days after the initial fine.*

***ALL OWNERS MUST PROVIDE A TENANT
INFORMATION FORM TO THE ASSOCIATION.
FAILURE TO PROVIDE A TENANT
INFORMATION FORM MAY SUBJECT THE
OWNER TO A VIOLATION FINE FOR
NONCOMPLIANCE WITH THIS SECTION 6.21.5.***

- (j) ***Authority of Management To Act. The Board hereby authorizes and empowers the management company to do all such things and perform all such acts as are necessary to implement and effectuate the purposes of this Article 6 without further action by the Board.***
- (k) ***Binding Effect. The terms and conditions of this Section 6.21.5 shall bind all Owners including their heirs, successors, transferees or assigns, and all Lots as defined in the Declaration, and the Properties shall hereafter be held, occupied, transferred, and conveyed subject to the terms and conditions of this Section 6.21.5.***

The terms and provisions of the Lakeside at Heath Declaration, except as modified herein, are hereby declared to be in full force and effect with respect to the Property. Unless otherwise defined herein, all capitalized terms used herein shall have the meanings set forth in the Lakeside at Heath Declaration. The Property shall continue to be held, occupied, sold, and conveyed subject to the terms and conditions of the Lakeside at Heath Declaration, the First Amendment, and now this Second Amendment, which shall run with title to the Property and are binding on all parties having any right, title or interest in and to the Property or any part thereof, including their heirs, representatives, successors, transferees and assigns, and shall inure to the benefit of each Owner thereof.

IN WITNESS WHEREOF, the Board of Directors for Lakeside at Heath Property Owners Association, Inc. has caused this Second Amendment to the Lakeside at Heath Declaration to be filed with the office of the Kaufman County Clerk.

**LAKESIDE AT HEATH
PROPERTY OWNERS ASSOCIATION,
INC.**

By: _____

Its: President

STATE OF TEXAS §
 §
COUNTY OF KAUFMAN §

BEFORE ME, the undersigned Notary Public, on this day personally _____, the duly-elected President of Lakeside at Heath Property Owners Association, Inc., a Texas non-profit corporation, known to me to be the person whose name is subscribed on the foregoing instrument and acknowledged to me that he/she executed the same for the purposes therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND AFFIRMED SEAL OF OFFICE on this the ____ day of _____ 2023.

Notary Public, State of Texas

CERTIFICATION OF AMENDMENT

I, _____, the duly elected Secretary of Lakeside at Heath Property Owners Association, Inc. hereby certify:

That this Second Amendment to the Declaration of Covenants, Conditions and Restrictions for Lakeside at Heath was approved upon the express written consent of at least a majority (51%) of the total votes of the Association in accordance with the Lakeside at Heath Declaration, that the same does now constitute an official part of the Lakeside at Heath Declaration and shall be filed of record with the Office of the Kaufman County Clerk.

_____, Secretary