

DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS & RESTRICTIONS
FOR LEGEND HILLS

This Declaration of Protective Covenants, Conditions & Restrictions ("Declaration") dated as of the 1st day of June, 2005 and executed by T. M. Morriss ("Developer") and the undersigned Property Owners:

WITNESSETH:

Developer is the owner of certain real property located in Smith County, Texas which plat is on file with Smith County, Texas with the reference of Cabinet D, Slide 270D and Slide 271D of the Subdivision Records of Smith County, Texas being Unit 1 and Unit 2 of the Legend Hills Subdivision of Smith County, Texas. In addition, the undersigned property owners own lots within such subdivision as identified as part of their signature; and

WHEREAS, Developer and Property Owner (hereinafter jointly referred to as Developer) desire to provide for the protection and preservation of the values, amenities, desirability and attractiveness of Legend Hills; and

WHEREAS, Developer desires to establish and provide for a system of administration and continual operation: and maintenance of certain common property of Legend Hills as hereinafter described; and

WHEREAS, Developer further desires to establish for the benefit of the development as well as Developer and for the mutual benefit and advantage for all future owners and/or occupants of the above described property constituting Legend Hills, Unit I and Unit II, certain rights, easements, privileges, obligations, restrictions, covenants, liens, assessments and regulations governing the use and occupancy of and construction of Buildings and other improvements in Legend Hills and the maintenance, protection and administration of the Common Use Facilities thereof, all of which are declared to be in furtherance of a plan to promote and protect the operative aspects of residency or occupancy in Legend Hills and on all portions thereof, and are intended to be construed as covenants running with the land which shall be binding on all persons hereafter having or acquiring any right, title or interest in all or any portion of the Properties and which shall inure to the benefit of each owner thereof;

NOW, THEREFORE, Developer, as legal title holder of the Properties and for the purposes set forth above and further hereinafter set forth, declares as follows:

ARTICLE I

Definitions

The following words when used in this Declaration or any supplemental declaration hereto (unless the context shall prohibit) shall have the following meanings:

1.1 "Architectural Committee" shall mean and refer to the Architectural Committee described in Section 6 and referenced in the Guidelines.

1.2 "Association" shall mean and refer to Legend Hills Homeowners' Association, Inc., a nonprofit corporation to be organized and existing under the laws of the State of Texas, its successors and assigns.

- 1.3 “**Board**” shall mean and refer to the board of directors of the Association.
- 1.4 “**Building**” shall mean and refer to a single-family residential building which may be built on each Lot.
- 1.5 “**Bylaws**” shall mean and refer to the bylaws which shall govern the Association.
- 1.6 “**Common Property**” shall mean and refer to any areas lying within or adjacent to the roads and areas buffering lots as designated by Developer, which are desirable for the Association to maintain and landscape.
- 1.7 “**Declaration**” shall mean and refer to this Declaration of Protective Covenants, Conditions and Restrictions applicable to the Properties and which is recorded in the Office of the Register of Deeds for Smith County, Texas, and which is on file in the County offices for Smith County, Texas.
- 1.8 “**Developer**” shall mean and refer to T. M. MORRISS, having a principal place of business at 2308 E. Front Street, Tyler, Texas 75702, and his assigns.
- 1.9 “**Developer’s Successor**” shall mean a person, corporation or limited liability company to which Developer has assigned his rights as to Developer under this Declaration.
- 1.10 “**Guidelines**” shall mean and refer to the Design Criteria, Legend Hills Architectural Guidelines and Review Procedures described in Article VI.
- 1.11 “**Homeowner**” shall mean and refer to a “**Lot Owner**” which shall be the record owner, whether one or more persons or entities, of the fee interest in any Lot which is part of Legend Hills, excluding, however, those parties having such interest merely as a security interest for the performance of an obligation.
- 1.12 “**Improvements**” shall mean any building, building addition, outbuilding, garage, detached structure, swimming pool, spa, gazebo, cabana, hot tub, recreational facility, driveway, parking area, walkway, wall, fence or other man-made structure located or constructed upon any Lot.
- 1.13 “**Lot**” shall either mean and refer to any plot of land to be used for single family residential purposes and so designated on the Plat.
- 1.14 “**Majority of Homeowners**” shall mean and refer to the holders of more than fifty percent (50%) of the total votes of the Members.
- 1.15 “**Member**” shall mean and refer to any person or persons who shall be a Homeowner, and as such, shall be a Member of the Association.
- 1.16 “**Mortgagee**” shall mean and refer to the holder of a first lien deed of trust encumbering a Lot.
- 1.17 “**Legend Hills**” shall mean and refer to that certain residential community known as Legend Hills which is being developed on real property now owned by Developer and Property Owners in Smith County, Texas.

1.18 "Person" shall mean and refer to a natural person, as well as a corporation, partnership, firm, association, trust or other legal entity. The use of the masculine pronoun shall include the neuter and feminine, and the use of the singular shall include the plural where the context so requires.

1.19 "Plans" shall mean and refer to the survey, site plan, landscape plan, building and architectural plans, and material samples referred to in Section 6.1.

1.20 "Properties" shall mean and refer to any and all of that certain real estate described herein.

1.21 "Property Owners" shall mean persons other than Developer who own one or more lots located within the property described herein. Property Owners shall be incorporated for the remainder of this document within the term "Developer" and wherever appropriate, Developer shall also mean Property Owners as well.

ARTICLE II

Properties Subject to This Declaration, Subdividing, Filing Plats

2.1 Submission of the Properties to Declaration and Bylaws. The undersigned, as legal title holder in a fee of the Properties, hereby submits and subjects the Properties to the provisions of this Declaration and Bylaws. This Declaration shall constitute covenants running with the land and binding upon all parties now owning or hereafter having or acquiring any right, title or interest in the Properties of any part thereof, and shall inure to the benefit of each Homeowner hereof. Every person hereafter acquiring a Lot or any portion of the Properties by acceptance of a deed to any interest in a Lot or any portion of the Properties shall accept such interest subject to the terms of this Declaration, and by acceptance of the same shall be deemed to have consented to and agreed to be bound by the terms, conditions and covenants of this Declaration.

2.2 Subdividing Filing Plats. The roads and utilities of each Phase shall connect to the roads of the preceding or adjoining Phase and Developer reserves the right of ingress and egress across the Properties for the purpose of road and utility connections and completion to the extent necessary.

2.3 Appointment of Successor Developer. Until December 31, 2010, Developer hereby reserves the right to transfer the right of Developer to the Successor Developer and vest the powers of Developer hereunder in the Successor Developer. Upon such transfer, the Successor Developer shall automatically be vested with the rights, obligations and powers of Developer hereunder,

ARTICLE III

Homeowners' Association

3.1 At such time as Developer has transferred to Lot Owners (but not a Successor Developer) ownership of all of the Lots in the Properties, or at such earlier time as may be chosen in the Developer's discretion, but not later than December 31, 2007, Developer shall cause the Association to be chartered.

3.2 Members. Every person or entity who is a Homeowner shall be a Member of the Association for such time as such person or entity is a Homeowner, Membership shall be appurtenant to and may not be separated from ownership of any Lot.

3.3 Voting. All Homeowners, except Developer, shall be entitled to one vote for each lot owned. The vote for any one Lot owned by more than one person or entity shall be exercised as they among themselves shall determine, but in no event shall the vote or votes with respect to any jointly owned Lot be cast separately. The Developer shall be entitled to five (5) votes for each Lot owned by the Developer.

3.4 Management Company. Developer shall have the right, in Developer's sole discretion, to enter into, on behalf of the Association, a management agreement with a property management company to collect assessments and advise the Association Board of Directors. Said management agreement shall be for a term of not more than one (1) year and for a management fee at the market rate as reasonably determined by Developer.

ARTICLE IV

Assessments

4.1 Creation of Lien and Personal Obligation of Assessments. Each Homeowner of any Lot shall, by acceptance of a deed therefore, whether or not it shall be so expressed in any deed or other conveyance, be deemed to covenant and agree to all the terms and provisions of these restrictions and promises to pay first to the Developer and then the Association both annual assessments and special assessments, such assessments to be established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection therefore as are hereinafter provided, shall be a charge and continuing lien upon the Lot against which such assessment is made as of the effective date of each assessment. Each such assessment, together with such interest thereon and costs of collection therefore as are hereinafter provided, shall also be the personal obligation of the person or entity who was Homeowner of such Lot at the time when the assessment fell due. In the case of co-ownership of a Lot, all of such co-homeowners shall be jointly and severally liable for the entire amount of the assessment. For calendar years prior to the creation of the Association, the maximum annual assessment per Lot shall be TWENTY-FIVE AND NO/100 (\$25.00) DOLLARS.

4.2 Purpose of Annual Assessments. The annual assessments levied by the Developer and/or the Association shall be used exclusively for the improvement, management, maintenance, operation and security of the Common Property, including, but not limited to, the payment of taxes, if any, and insurance thereon, the payment of utilities bills thereon (including water for sprinkler systems), and the repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof. The annual assessments may not be used for paying for the cost of completing the Common Property being initially installed by the Developer,

4.3 Special Assessments. In addition to the annual assessments herein above authorized, the Association (but not the Developer) may levy special assessments for the purpose of defraying, in whole or in part, the cost of any

construction or reconstruction, unexpected repair or replacement of the Common Property, including the necessary fixtures and personal property related thereto; provided, however, that upon creation of the Association, any such special assessment shall have the assent of two-thirds (2/3) of the Members present and voting in person or by proxy at an annual or special meeting of the Membership at which a quorum is present. Special assessments shall be due and payable on the date(s) which are fixed by the resolution authorizing such assessment.

4.4 Commencement. The assessment for a Lot shall commence upon the first day of the month following purchase of the Lot from Developer unless Developer hereafter sets a different date for assessments to commence for all Lots which have been purchased from Developer. At Developer's election, an initial assessment in the amount of One Hundred Dollars (\$100.00) shall be paid at the closing of the purchase of each Lot. As to Lots owned by the Developer, the annual assessments shall commence as to each Lot only upon conveyance of such Lot to a Lot owner. The Developer shall not pay annual or special assessments. Assessments on Lots that first become subject to assessments after the beginning of a fiscal year shall be prorated and paid for the remainder of such fiscal year.

4.5 Calculation of Annual Assessment. Prior to creation of the Association, the Developer shall fix the annual assessment, which shall be limited as set forth in Section 4.1. Prior to creation of the Association, Developer agrees to fund the difference between the cost of maintaining the Common Property and the assessments received from Homeowners. Any new Homeowner shall be informed of the amount of the annual assessment for the current year at the time of closing. Prior to creation of the Association, the Developer will notify all Homeowners of the annual assessment for the upcoming year at least 30 days prior to January 1 of that year. After creation of the Association, the Board will set the amount of the annual assessment and will notify all Homeowners of that amount at least 30 days prior to the effective date of the assessment.

4.8 Effect of Non-Payment of Assessment or Other Charges. If any annual or monthly assessment or if any special assessment is not paid on the date when due, or if any sum or charge agreed to be paid by Homeowners in this Declaration is not paid when due, then such assessment, sum or charge shall be delinquent and shall accrue interest thereon at the highest rate permissible under the laws of the State of Texas, after the date due. If such assessment, sum or charge is not paid within thirty (30) days after the due date, then the Developer or the Association may bring an action of law against the Homeowner personally and/or foreclose the lien against the Lot by court action or trustee's sale, as hereinafter provided, and there shall be added to the amount of such assessment, sum or charge all reasonable attorneys fees and costs incurred by the Developer or the Association in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessments as indicated above.

4.9 Enforcement of Lien. For and in consideration of the privileges and protections granted herein, and the mutual enjoyment and use of the Common Property purpose of securing the payment of the assessments, other sums and charges described in Sections 4.1 and 4.18 above, each person purchasing a Lot or tract of property located within the property described herein do hereby grant a lien upon the subject property purchased by such Person as an ongoing security for the payment of such assessments or other sum relating to such property. The undersigned does hereby grant unto T. M. Morriss, Trustee or his successors and assigns a power of sale with such sale to be conducted as a non-judicial sale under the same rules and regulations relating to foreclosure sales under deeds of trust.

If said assessments, sums or charges, or interest thereon, are not paid promptly when due or within any period of

cure allowed above, or if after said Homeowners fail to pay any other sums due as above provided, or further, fail to reimburse the Trustee or the Developer or the Association within thirty (30) days from the date of Trustee's, Developer's or Association's payment of such sums, this trust conveyance shall remain in full force and effect, and the said Trustee or his successor in trust is hereby authorized and empowered, upon giving twenty (20) days' notice by three (3) publications in any newspaper, daily or weekly, published in Smith County, Texas, to sell said Lot at the front door of the courthouse in said county to the highest bidder for cash at public outcry, free from the statutory right of redemption, homestead, dower and all other exemptions of every kind which are hereby expressly waived; and the said Trustee or his successor in trust is authorized and empowered to execute and deliver a deed to the purchaser at such foreclosure sale. The Developer or the Association may bid at any sale under conveyance. The Trustee may at any time after default in the payment of any of the above described indebtedness enter and take possession of said Lot and shall only account for the net rents actually received by him. It is further agreed that in the event the Trustee fails, before selling said Lot, as herein provided, to enter and take possession thereof, the purchaser shall be entitled to immediate possession thereof upon the delivery to him by the Trustee of a deed for said Lot. In case of sale hereunder, the proceeds shall be applied by the Trustee as follows:

(i) To the payment of all costs, charges and expenses of executing this conveyance and enforcing said lien as herein provided; also reasonable attorneys fees for advice in the premises, or for instituting or defending any litigation which may arise on the account of the execution of this conveyance, or the enforcement of said lien; also the expenses of any such litigation.

(ii) To the payment of all taxes which may be unpaid on said premises. To the payment of all unpaid indebtedness herein secured.

(iv) The balance, if any, to be paid to said Homeowners, their order, or to their representatives or assigns.

In the event of the death, absence, inability or refusal to act of said Trustee at any time when action of the foregoing powers and trusts may be authorized, or for any other reason, the lawful owner and holder of said lien is hereby authorized and empowered to name and appoint a successor in trust to execute this trust by an instrument in writing to be recorded in the Register's Office for Smith County, Texas and title therein conveyed to the above named Trustee shall be vested in said successor. Trustee is authorized to appoint an attorney-in-fact to conduct in his stead and on his behalf and with the same power possessed by said Trustee as granted herein, any and all foreclosure sales authorized above.

The lien described in this Section and in Section 4.1 above shall be subordinate to the lien of a bona fide recorded deed of trust encumbering any such Lot. Provided, however, in the event the holder or owner of such mortgage or first deed of trust becomes the owner of such Lot after foreclosure thereof, such purchaser shall become subject to the lien reserved herein for the purpose of securing all assessments becoming due from and after the date such purchaser accepts a deed to said Lot or enters into possession of said Lot, whichever shall first occur. The bona fide deed of trust must secure a debt owed to a third party that would constitute a valid lien upon the subject property under the provisions of the Texas Constitution as to an encumbrance on a homestead. In addition, the liens created under the terms of this document shall also be subordinate to a purchase money lien secured by an unimproved lot.

ARTICLE V

INTENTIONALLY OMITTED

ARTICLE VI

Architectural Restrictions

6.1 Plan Approval. No Lot may be cleared, construction of any Improvements, nor alteration of existing Improvements be commenced until the Plans for the same are approved by the Architectural Committee in writing as set forth in this Article VI and the Guidelines.

6.2 Guidelines. The Developer has prepared and shall make available to all Lot owners a statement of design and building criteria for Legend Hills which shall set forth the Plan approval procedure and Plan requirements. The Guidelines must be complied with in the construction of Improvements or alteration of existing Improvements. Until the Developer turns over Developer's control of the Architectural Committee to the Association, the Developer may amend and modify the Guidelines as the Developer deems advisable or appropriate. After the Developer turns over control of the Architectural Committee to the Association, the Association may so amend or modify the Guidelines.

6.3 Fees. The Lot owner shall be responsible for payment of all fees related to application for review and approval by the Architectural Committee as detailed in the Fee Schedule attached to the Guidelines. The Architectural Committee shall have the right to change said fees from time to time.

6.4 Plans. The Guidelines shall set forth with particularity the detail to which all Plans submitted to the Architectural Committee must conform. Provided however, it is the intent of the Declarations to require that Plans include architectural plans, site plans, landscaping plans, etc., which would be necessary for complete construction of any Improvements on a Lot. The Guidelines may permit the submission of preliminary design plans prior to preparation and submission of final complete construction plans.

6.5 Architectural Committee. The Architectural Committee shall consist of three (3) members appointed by Developer, who is empowered to appoint their successors should a vacancy occur, or may remove members and replace them at the Developer's sole discretion until creation of the Association and transfer of Developer's control of the Architectural Committee to the Association, and their names shall be maintained at Developer's offices. After creation of the Association, the authority to appoint the Architectural Committee may be transferred to the Association, and transfer of Developer's control of the Architectural Committee to the Association. Until transfer of Developer's control of the Architectural Committee to the Association, the Developer may, in its sole discretion, overrule any decision of the Architectural Committee.

6.6 Governmental Restrictions. Each Homeowner shall observe all governmental building codes, health regulations, zoning restrictions and other regulations applicable to his Lot. In the event of any conflict between any provision of any such governmental code, regulation 01. restriction and any provisions of this Declaration, the more restrictive provision shall apply.

6.7 Exclusive Contractors. In order to minimize confusion and complications which may result from the construction of a number of residential units upon the Properties at the same time, and in order to insure the maintenance

of high quality of construction, the Architectural Committee reserves the right to approve contractors authorized and permitted to construct Buildings or other improvements upon Lots within the Properties. Such approval shall not be arbitrarily or unreasonably withheld.

6.8 Actions Required During Construction. All contractors and subcontractors must review and satisfy the Guidelines during construction of Buildings or other Improvements. All proposed construction must be accurately staked out on the site, including all Building corners, outbuildings, major decks, terraces and driveways. A set of Architectural Committee approved Plans must be on site at all times. The Homeowner is responsible for obtaining all required local building permits. All alterations to the approved Plans must be submitted to the Architectural Committee for approval before construction of those alterations can begin. The construction site must be kept clean and orderly. Only the construction sign, in the sign format approved by the Architectural Committee, will be permitted on a Lot during construction. Contractors must obtain sign approval from the Architectural Committee.

6.9 Construction Requirements for Contractors.

6.9.1 No sites are to be cleared of trees or scrub by burning methods.

6.9.2 No lumber, brick, stone, block, concrete or other building materials, nor any other thing used for building purposes, shall be stored on any Lot except for the purpose of construction on such Lot, and then only for such length of time as is reasonably necessary for the construction of the improvements then in progress. No burning of construction materials or fires shall be permitted on any Lot except as permitted under the laws or ordinances of Smith County, Texas. No trailers, mobile homes for temporary structures shall be permitted on any Lot during construction or otherwise unless prior written approval of the Architectural Committee is obtained. Provided, however, one portable restroom facility shall be permitted for any Lot on which a residence is being constructed but only for the period of construction. The Developer may erect one or more temporary structures on any Lot or Lots for the purpose of maintaining a sales and construction office.

6.10 Architectural Elements. The Architectural Committee shall be the sole judge of the architectural desirability or compatibility of any Building or Improvements to be erected upon a Lot. No particular architectural style, era or design shall be required or preferred by the Architectural Committee, and approval of a particular architectural style, era or design by the Architectural Committee as to any proposed Building or other Improvement for a Lot shall not result in the Architectural Committee being required to approve the same or similar architectural style, era or design for future proposed Buildings or Improvements. The Architectural Committee shall determine, in its sole discretion, whether or not the architectural design or style of a Building or other proposed Improvement to be erected upon a Lot is compatible with the topography and location of the Lot itself, with the best interests of the Legend Hills development, and with other existing Buildings or Improvements within Legend Hills.

6.11 Contractor Agreement. The Architectural Committee shall have the power to require that all contractors or builders of Buildings or other Improvements on a Lot and the Lot owner execute a Building Construction Agreement wherein they agree to certain matters pertaining to such construction and make a deposit with the Architectural Committee to insure compliance with the Agreement, the Declarations and the Guidelines.

ARTICLE VII

Improvements, Setback and Use Restrictions

7.1 **Improvement Restrictions.** The following restrictions shall apply Improvements and to the extent of a conflict with the Guidelines, the following shall control:

7.1.1 **Minimum Maximum Floor Areas.** The total floor area of the main residential structure upon any Lot exclusive of open porches, patios, garages, unfinished basements shall be not less 1,600 square feet. The total floor area of the main residential structure upon any Lot shall not exceed the area permitted for each lot pursuant to the approved sewer perk plan.

7.1.2 **Driveways.** All homes will have a defined driveway constructed of brushed concrete, exposed aggregate, pavers or other materials approved by the Architectural Committee.

7.1.3 **Garages.** Each dwelling shall provide for the storage of not less than two automobiles within a space totally enclosed by walls and a roof and providing an overhead garage door(s) for vehicular access. No carports are allowed unless otherwise approved in writing by the Architectural Committee. Garages, or any other separate storage, parking or other facility or outhouse, as separate structures, are subject to prior Plan approval by the Architectural Committee.

7.1.4 **Mailboxes.** The Architectural Committee shall have the power to designate a specific type of mailbox for use in Legend Hills.

7.1.5 **Exterior Lighting.** Location and description of exterior lighting fixtures are subject to review and approval by the Architectural Committee prior to installation.

7.1.6 **Drainage.** Drainage of each lot shall conform to the general drainage plans of Legend Hills. No storm water drains, roof down spout or ground water shall be introduced into the sewage perk system. Construction in each lot shall be made with watertight joints in accordance with all applicable plumbing code requirements.

7.1.7 **Underground Utility Service.**

a. Each property owner's electric utility service lines shall be underground throughout the length of the service line from the electric service point of delivery to the customer's building. Title to the service lines shall remain in, and the cost of installation and maintenance thereof shall be borne by the lot owner upon whose lot the service line is located.

b. Reasonable and appropriate easements are hereby dedicated and reserved to each lot owner, together with the right of ingress and egress over abutting install, operate and maintain electric service lines to the electrical termination points. Electric service lines, as installed, shall determine the exact location of said easements.

c. The electric and telephone easements shown on the plat shall be maintained and preserved in their present condition and no encroachment thereon and no change in the grade or elevation thereof shall be made by any person or lot owner without the express written consent of the electrical or telephone company.

d. Aboveground electric transformers and pedestals may be installed at appropriate points in any electric easement.

7.1.8 Improvement and Setback Restrictions.

a. No building or structure, or any part thereof, shall be located on any Lot Dearer to the front line, the rear line, or any side line other than the minimum building setback lines required by Smith County, Texas and as may be shown on the recorded pads. For purposes of determining compliance with this requirement, porches, wing walls, eaves, and steps extending beyond the outside wall of a structure shall be considered as a part thereof. No encroachment upon any utility easements reserved on the Plat shall be authorized or permitted.

b. To provide for uniformity and proper utilization of the building area within the Lots, dwellings or appurtenant structures on a Lot, shall not be less than ten (10) feet from the Lot line between contiguous Lot(s), unless approved by the Architectural Committee.

c. Notwithstanding anything to the contrary, the Architectural Committee shall implement setback and sideline requirements upon review of building and site plan when submitted under Section VI herein.

d. No building or structure, or any part thereof, shall be located within the designated septic perk area for any Lot. No encroachment upon the septic perk area shall be permitted,

7.1.9 Re-subdivision of Lots. No lot shall be re-subdivided, nor shall any building be erected or placed on any such re-subdivided lot, unless such re-subdivision is approved by the Architectural Commission, as well as any governmental authority having jurisdiction. Architectural Committee, however shall have the right, but not the obligation, to re-subdivide into lots, by recorded plat or in any other lawful manner, all or any part of the properties contained within the outer boundaries of the Plat, and such lots, as re-platted, shall be subject to this Declaration as if such lots were originally included herein. Any such re-piat must comply with pertinent re-platting ordinances, statutes, regulations and requirements.

7.1.10 Walls, Fences and Hedges. As a “structure” no fence or wall of any nature may be erected, placed or altered on any lot until the type of building materials and construction plans are approved as provided in Article VI. No wall or fence shall be erected or maintained nearer to the front lot line than the front building line on such lot, or on corner lots nearer to the side lot line than the building setback line parallel to the side wall, absent written approval of the Architectural Committee. All fencing shall be constructed only of such material and erected only on such lots and in such a manner as shall be approved by the Architectural Committee. No fence shall be constructed and maintained between the front building or setback line and the street; provided, however, the planting of hedges, shrubbery or evergreens in lieu of a

fence, and extending to the front or sides of any lot is permitted, provided such planting shall not be maintained at a height in excess of forty-two (42) inches and upon approval of the Architectural Committee.

7.1.11 Clothes Lines; Tennis Courts; Swimming Pools; Antennae and Receivers/Transmitters; Boats, Animals or Structures.

- a. No outside clothes lines shall be erected or placed on any Lot.
- b. No tennis court fence shall be erected on any Lot.
- c. No above ground swimming pools shall be erected or placed on any lot from the date hereof. Swimming pools shall be allowed on lots approved by the Architectural Committee and shall be located at the rear of the residence. All swimming pools shall have a perimeter enclosure, the plans for which, including landscaping plans, must be approved by the Architectural Committee.
- d. No antennae (except for standard small television antennae) or microwave and other receivers and transmitters shall be erected or placed on any lot unless the lot owner can show special circumstances requiring the use of extraordinary receivers or transmitters and unless its design and placement are approved by the Architectural Committee. No satellite dish with a diameter of 42" or greater is allowed. Satellite dish shall not be mounted on the front elevation of the house; the mailbox; or in a location not connected to the house. By granting permission to a Lot owner to erect any of the aforementioned receivers or transmitters, the Architectural Committee shall not be deemed to have waived this restriction as it may apply to other Lots. Unless approved by the Architectural Committee, no electronic antenna or device of any type other than an antenna for receiving normal television signals shall be erected, constructed, placed or permitted to remain on any lot, house or building. Television antennas must be located to the rear of the roof ridge line, cable or center line of the principal dwelling. Freestanding antennae must be attached to and located behind the rear wall of the main residential structure. No antennae, either freestanding or attached, shall be permitted to extend more than ten (10) feet above the roof of the main residential structure on the Lot, or shall be erected on a wooden pole.
- e. Any storage building, barn, separate structure, garage or other outhouse is allowed only upon written prior approval which plans should be submitted to include such designation of location, purpose, building materials, color, decor, and is subject to the Architectural Committee's approval in its sole discretion. No temporary buildings, trailers, mobile home, basement, tent, shack, garage, barn or any other type of temporary or partially finished building or structure shall be erected or placed upon any lot without the prior written consent of the Architectural Committee.
- f. One boat with or without a boat trailer may be stored or kept on a Lot provided it does not exceed twenty-five (25) feet, and is stored in an enclosed garage or kept covered on a portion of the driveway which is not visible from the street in front of the house. No motor homes, trailers, campers or commercial vehicles may be stored or kept on a Lot. Motorcycles, skate boards, three or four wheelers as well as other off road vehicles must be kept or stored within the garage and may not be parked or kept outside of the garage.

g. No animals, poultry or reptiles other than usual and ordinary house pets shall be maintained on any lot. Dogs or cats may be kept upon the Lot as pets only, but they must be confined on the residential Lot, and are expressly prohibited from running loose. For purposes of the definition of house pet, it shall specifically not include Doberman Pinschers, Rottweilers, Pit Bulls or German Shepherds, or other such like natured dogs, the size and nature of which are expressly prohibited.

h. No ornamental yard objects, statuary or sculpture, etc., shall be placed on any Lot unless its design and placement are approved in writing by the Architectural Committee.

7.1.12 Storage Tanks and Refuse Disposal. No exposed aboveground tanks or receptacles shall be permitted for the storage of fuel, water or any other substance, except for refuse produced through normal daily living and of a nature which is satisfactory for pickup. Incinerators for garbage, trash or other refuse shall not be used or permitted to be erected or placed on any Lot. All equipment, coolers, and garbage cans shall be concealed from the view of neighboring lots, roads, streets, and open areas.

7.1.13 Maintenance. All Lots, together with the exterior of all improvements located thereon, shall be maintained in a neat and attractive condition by their respective owners or occupants. Such maintenance shall include, but not be limited to painting, repairing, replacing, and caring for roofs, gutters, downspout, building surfaces, patios, walkways, driveways, and other exterior improvements. The owner or occupant of each lot shall at all times keep all weeds and grass thereon cut in a sanitary, healthful and attractive manner and all trees and shrubbery pruned and cut. The accumulation of garbage, trash or rubbish of any kind and the burning (except as permitted by law) of any such material is prohibited. In the event of default on the part of the owner or Occupant of any lot in observing the above requirements or any of them, such default continuing after ten (10) days written notice thereof, the Architectural Committee may enter upon said lot, repair, maintain and restore the same, cut or prune or cause to be cut or pruned, such weeds, grass, trees and shrubbery and remove or cause to be removed, such garbage, trash and rubbish or do any other thing necessary to secure compliance with these restrictions and to place said lot in a neat, attractive, healthful and sanitary condition. In so doing, the Architectural Committee shall not be subject to any liability for trespass or otherwise. All costs incurred in any such repair, maintenance, restoration, cutting, pruning or removal shall be charged against the owner of such lot as the personal obligation of such owner and as a lien upon the lot, enforceable and collectible in the same manner and to the same extent as a maintenance assessment. Any occupant of such lot shall be jointly and severally liable with the owner for the payment of such costs. Architectural Committee shall have a lien on that lot and the improvements thereon to secure the repayment of such amounts. Such lien may be enforced by erections or foreclosure against that lot and the improvements thereon, but such lien shall be subordinate to any first mortgage thereon.

7.1.14 Damage, Destruction or Maintenance. Lot owners shall, at their sole cost and expense, repair their residence, keeping it in a condition comparable to that at the time of its initial construction, excepting only normal wear and tear. If all or any portion of a residence is damaged or destroyed by fire, or other casualty, then the owner shall, with all due diligence, promptly rebuild, repair, or reconstruct such residence in a manner restore it in its apparent condition immediately prior to the casualty. In the event of damage or destruction to any structure located in the properties, the respective owner thereof agrees as follows:

- a. In the event of total destruction, the owner shall promptly clear the lot of debris and leave the same

in a neat and orderly condition. Within 60 days of any insurance settlement, the owner must commence to rebuild and reconstruct the structure. Any such rebuilding and reconstruction shall be accomplished in conformity with the plans and specifications of the original structure so destroyed, subject to any changes or modifications as approved by the Architectural Committee in accordance with Section IV hereof.

b. In the case of partial damage or destruction, the owner shall, as promptly as an insurance adjustment may be made, cause the damage or destruction to be repaired and restored in a first class condition in accordance with the plans and specifications of the original structure and in conformity with the plans and specifications of the original structure and in conformity with its original exterior painting and decor. Any change or alteration must be approved by the Architectural Committee as the case may be, in accordance with Section IV hereof. In no event shall any damaged structure be left unrepaired for in excess of sixty (60) days, notwithstanding the date of the insurance adjustment.

c. If the correction of a maintenance or repair problem incurred on one lot necessitates construction work or access on another lot, both owners shall have an easement on the property of the other for the purpose of this construction.

7.1.15 Environmental Control Erosion Control. Each Homeowner shall be responsible for soil testing for his individual Lot to determine the suitability of the soil for construction, and each Homeowner shall be responsible for determining the necessary construction requirements for dealing with any unstable soil existing on the Homeowner's Lot; No development can occur in areas that require soil fill in major drainage swales. No Homeowner shall excavate or extract earth from any of the Lots for any purpose, including a business or commercial purpose. No elevation changes to a Lot shall be permitted which will materially affect the surface grade of a Lot unless the consent of the Architectural Committee is obtained

7.1.16 Nuisances and Unsightly Materials. No Building or other structure on any Lot shall be used for any commercial or business purpose. Each Homeowner shall refrain from any act or use of his Lot which could reasonably cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. No Boxious, offensive or illegal activity shall be carried on upon any Lot. Boats may be stored in enclosed areas and must not be visible from neighboring Lots, streets, roads or open areas. No motorcycle, motorbike, skateboards or motor scooter shall be permitted to be operated in the streets of Legend Hills except for the purpose of travel outside of the Property and such use shall be by the most direct route available. No all terrain vehicles, such as "dirt bikes", "three or four wheelers", or similar motorized vehicles, por "go-carts", shall be permitted to be operated on any Lot or the Common Property. No lot shall be used in whole or in part for the storage of rubbish of any character whatsoever, nor shall any substance, thing or material be kept upon any Lot which will emit foul or noxious odors or which will cause any noise that will of might disturb the peace and quiet of the Owners or occupants of surrounding Lots or property. The foregoing shall not be construed to prohibit the temporary deposits of trash and other debris for pick-up by garbage and trash removal service units.

7.1.17 Speeding. Any vehicle moving in excess of twenty-five (25) miles per hour on streets within Legend Hills shall be considered as speeding and the owner and/or operator of said vehicle will be subject to any fine levied by the Developer or the Homeowners' Association.

7.1.18 Fires and Bunning. No outside fires for burning of leaves, tree limbs or for any other purpose shall be permitted on a Lot or in the Common Property. Provided, however, fires in outdoor grills for the purpose of cooking shall be permitted on a Lot.

7.1.19 Hobbies and Activities. The pursuit of any inherently dangerous activity or hobby, including, without limitation, the assembly and disassembly of motor vehicles or other mechanical devices, the shooting of firearms, fireworks, or pyrotechnic devices of any type or size, and other such activities shall not be pursued or undertaken on any part of any Lot without the consent of the Developer.

7.1.20 Roads. It shall be obligatory upon all owners of the Lots in this subdivision to consult with the Chief Engineer of the Highway Department of the State and local government, before any driveways, culverts, other structures or grading are constructed within the limits of any dedicated roadway, and such placement or construction shall be done in accordance with the requirements of the County- Highway Commission applying to county roads in order that the roads or streets within the subdivision which would be affected by such placement or construction may not be disqualified for acceptance by the County into the public road system.

ARTICLE VIII

Easements

8.1. General. Until creation of the Association, Developer reserves an easement for ingress and egress generally across the Properties at reasonable places on the Properties and all Lots for the purpose of completing Developer's intended development and construction. Said ingress and egress easement shall in any event be reasonable and shall not interfere with the construction of improvements on a Lot nor the use and enjoyment of a Lot by a Homeowner.

8.2 Emergency. There is hereby reserved without farther assent or permit a general easement over all roads shown on the Plat to all policemen and security guards employed by Developer, firemen, ambulance personnel, garbage, collectors, mail men, utility personnel, delivery service personnel and all similar persons to enter upon the Properties or any portion thereof which is now or hereafter made subject to this Declaration in the performance of their respective duties. Included in the persons designated to have access to the premises are all public officials of the Smith County, and all police and fire officers of Smith County, Texas.

8.3 Basements for Drainage and Utilities. Portions of the Lots are encumbered with drainage, water, sewer and/or other easements as shown on the Plat and such easements are declared to be perpetual and irrevocable and for use in common by all Lot Homeowners for drainage or for utilities.

8.4 Easement for Roads. The right is expressly reserved to Developer and owners, their representatives, heirs, successors and assigns, to construct all streets, roads, alleys or other public ways as now, or hereafter may be, shown on the Plat, to and from for ingress and egress to a certain parcel or tract of property. Construction of the sidewalks on each Lot shall be the responsibility of the Lot Owner and building contractor. For the purpose of constructing such streets, roads, alleys or public ways, they additionally shall have an easement upon and along each adjoining Lot(s) for the construction of proper bank-slopes, in accordance with the specifications of the government body or agency having jurisdiction over the construction of public roads, and no owner of any lot shall have any right of action or claim for damages against anyone on account of the grade of elevation at which such road, street, alley or public way may hereafter be constructed, or on account

of the bank slopes constructed within the easement or right-of-way.

ARTICLE IX

Covenant to Build

9.1 **Covenant to Build.** In the event the owner of any Lot within the subdivision shall, not, within a period of two (2) years from the date of the original deed from the owner or Developer, begin construction of a dwelling house upon said Lot according to plans and specifications which shall have been submitted to and approved by the Developer, and which must comply with the restrictions and conditions applicable to said Lot, or sell the Lot to another purchaser, then and in such case at the option of the Developer (unless the time for this performance of this Covenant shall have been extended by the Developer or owner in writing, the owner of the Lot, at the expiration of the original two (2) year period, shall re-convey at his expense said lot to the Developer or owner granting a clear title therefore for an amount equal to the price which he paid for the lot when acquired. The amount of any Deeds of Trust or Encumbrances to be paid shall be deducted from the purchase price and paid to the owner.

9.2 **Completion Before Occupancy.** After construction has been commenced, any main residence building must be completed and ready for occupancy within eighteen (18) months. No residence shall be occupied until the construction thereof has been completed in accordance with the plans and specifications as approved by the Developer as outlined herein, except to the following improvements:

- a. Final grading, planting, sidewalks, walk ways, and retaining walls, which items shall be finished within ninety (90) days after date of occupancy, and patios and paved driveways which shall be completed within six (6) months from the date of occupancy.
- b. Developer and Owner shall have the right to enter upon and inspect any portion of the properties and the improvements thereon during reasonable hours, upon reasonable requests, for the purpose of ascertaining whether or not the provisions of this Declaration have been or are being complied with. Such persons shall not be deemed guilty of trespass by reason of such entry provided twenty-four hours' prior written notice and requests have been given to the owner of any residential Lot entered upon. The provisions contained in this Covenant shall be specifically enforceable by the Owner or Developer.

ARTICLE X

General Provisions

10.1 **Duration.** These restrictions shall be appurtenant to and run with the land and shall be binding upon all Homeowners and parties hereinafter having an interest in any of the Properties and all parties claiming under them for a period of fifty (50) years from the date of the filing of this Declaration. Fifty (50) years after the recordation of this

instrument, said Covenants shall be automatically extended for successive periods often (10) years each.

10.2 Enforcement. All restrictions herein may be enforced by Developer, his successors and assigns or by the Association, by proceeding at law or in equity against the person, firm or other entity violating or attempting to violate any covenant or covenants, either to restrain the violation thereof or to recover damages, together with reasonable attorneys' fees and court costs. Further, after creation of the Association, in the event the Association falls to act to enforce any restriction herein, any Homeowner of any Lot may enforce these restrictions as aforesaid against any other Homeowner, except, however, the covenants contained in Article 9.1 hereof regarding the Developer's option to purchase shall be enforceable only by Developer and not by his successors Or assigns unless specifically assigned thereunto by Developer in writing.

10.3 Severability Partial Invalidity. Any invalidation of any one or more of these restrictions by judgment, court order, or statute, shall in no way affect any of the other provisions, or any portion thereof, which shall remain in full force and effect. Any failure on the part of Developer or his successors or assigns to enforce any restriction, shall in no way affect any of the other provisions hereof or be deemed as a waiver of the right to enforce such restrictions any time after the violation thereof.

10.4 Abatement. In the event that any Homeowner violates any of the terms or conditions of these restrictions and fails to cure the same within ten (10) days after written notice thereof then the Developer or the Association, in addition to the other rights and remedies provided for herein, shall have the express right, privilege and license to enter upon any Lot to take any reasonable action to cure such violation, and all reasonable costs thereof shall be at the expense of the Homeowner of such Lot and shall be payable upon demand by the Developer or the Association.

10.5 Indemnification. The Developer and owner shall be entitled to indemnity from any and all property owners including counsel fees, reasonably incurred or by or imposed (including any officer or director) in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the Developer and/or owner) to which he or she may be a party by reason of being or having been an officer or director of Developer or owner. The officer/director, Developer and owner shall not be liable for any mistake of judgment, neglect or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The owner, Developer, its officers and directors, shall have no personal liability with respect to any contract or other commitment made by them in good faith, on behalf or in the process of approval or any form of designation under these covenants and restrictions, and the owners of each lot or such property shall indemnify and forever hold such owner or Developer free and harmless against any and all liability to others on account of any such contract or commitment or actions hereunder, Any right to indemnification provided for herein shall not be exclusive of any other rights.

10.6 Exoneration of Developer Architectural Committee, Board and Officers. Each Homeowner of any Lot in the Properties or any other party interested in the Properties expressly agrees that:

10.6.1 No duty or obligation is imposed upon Developer to enforce or attempt to enforce any of the covenants or restrictions contained herein, nor shall Developer be subject to any liability of any kind or nature whatsoever to any third party from failing to enforce the same; and

10.6.2 The Architectural Committee's approval of any building plans, specifications, site or landscape plans or elevations, or any other approvals or consents given by the Architectural Committee pursuant hereto or otherwise shall not be deemed a warranty, representation or covenant that any such Buildings, improvements, landscaping or other action taken pursuant thereto or in reliance thereon complies with any or all applicable laws, building codes requirements or regulations, the sole responsibility for all of same being upon the respective Homeowner; and Developer and the Architectural Committee are expressly released and relieved of any and all liability in connection therewith. Each Homeowner with respect to the improvements on said Homeowners Lot agrees to indemnify and hold the Developer and the Architectural Committee harmless from all loss or damage, including reasonable attorneys' fees, incurred by Developer or Architectural Committee as a result of any suit or claim made by any party concerning any feature of construction of any improvements made on said Homeowners' Lot, the noncompliance thereof with such laws, rules, building codes requirements or regulations, or further, any Suit or claim made by any injured or alleged injured party claiming to have been damaged or injured by any failure in the structure of any completed improvement or any negligence in design or workmanship of any component of such completed improvements on such Lot.

10.6.3 Liability. The Developer, the Board, officers of the Association, and members of the Architectural Committee shall not be personally liable to the Homeowners for any mistake of judgment or for any acts or omissions of any nature undertaken in the performance of their respective duties with regard to the Association except for acts or omissions found by a court of competent jurisdiction to constitute gross or willful negligence or fraud.

10.7 Nothing contained within these restrictions shall be held or construed to impose any restrictions, covenants, or easements on any other land of the Developer, except for the land contained within the description of the Properties, unless specifically submitted and included within these restrictions by a Supplementary Declaration.

ARTICLE XI

Amendment

11.1 Amendment. Anything contained herein to the contrary notwithstanding, the owners reserve the right for the owners, or the Developer, its successors and assigns, if the property has been conveyed to it by the owners, to modify, release or amend all the covenants and restrictions contained herein until such time as Developer has sold all of the Lots; and thereafter these Declarations may be modified and amended by the vote of at least three-fourths (3/4) of the owners of all Lots then subject to this Declaration, each such Lot to carry one vote. Any such modification must be in writing and filed for record in the Register's Office for Smith Developer hereby reserves the right to modify or amend these restrictions on the balance of the unsold lots at its sole discretion. Any such modification shall be effective only to the remaining lots owned by Developer and any such modification must be in writing and filed for record in the Register's Office for Smith County, Texas.

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

IN WITNESS WHEREOF, the Developer has caused this Declaration of Protective Covenants and Restrictions to be executed on the day and date first above written.

Developer/Owner:

T. M. MORRIS
T. M. MORRISS

Property Owners:

Steve Morriss
STEVE MORRISS

Karen Morriss
KAREN MORRISS

James Powers
JAMES POWERS

Virginia Powers
VIRGINIA POWERS

Todd Williams
TODD WILLIAMS

Joanna Williams
JOANNA WILLIAMS

~~JAMES EXORNNAN~~

~~DEBORAH EXORNNAN~~

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50

30

 16^{th}

January



Connie Sebring
NOTARY PUBLIC - STATE OF TEXAS

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~~This instrument was acknowledged before me on this the~~ day of

..... 2005, by JAMES E. DRENNAN and wife, DEBORAH X

DRENNAN

~~NOTARY PUBLIC STATE OF TEXAS~~

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8

15th

December

Corrigan Development, LLP.



Jill Gabriel
NOTARY PUBLIC - STATE OF TEXAS

CORRIGAN DEVELOPMENT, L.L.P.

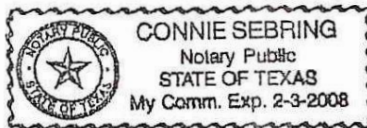
By: [Signature]
Scott Brown, Managing Member

STATE OF TEXAS

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COUNTY OF SMITH

This instrument was acknowledged before me on this the 3rd day of November, 2005, by T. M. MORRISS.



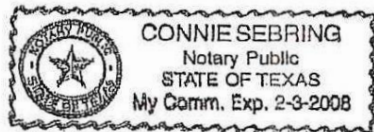
Connie Sebring
NOTARY PUBLIC - STATE OF TEXAS

STATE OF TEXAS

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COUNTY OF SMITH

This instrument was acknowledged before me on this the 3rd day of November, 2005, by STEVE MORRISS and wife, KAREN MORRISS.



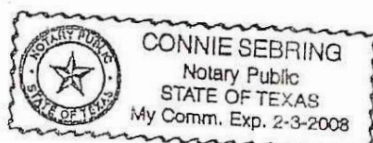
Connie Sebring
NOTARY PUBLIC - STATE OF TEXAS

STATE OF TEXAS

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COUNTY OF SMITH

This instrument was acknowledged before me on this the 1st day of November, 2005, by JAMES POWERS and wife, VIRGINIA POWERS.



Connie Sebring
NOTARY PUBLIC - STATE OF TEXAS