

DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS

FOR

TIMBER GROVE SUBDIVISION

THE STATE OF TEXAS ~
 ~ **KNOW ALL MEN BY THESE PRESENTS**
COUNTY OF WALLER ~

That Timothy J. Phelan, (herein called the "Declarant") is the owner of the following described real property located in Waller County, Texas known as the **TIMBER GROVE SUBDIVISION** (herein sometimes called the "Subdivision") more fully described:

- (a) *42.498 acres of land, more or less being out of and a part of the Preston Pevehouse Survey, A-234, also referred to as the Upper Pevehouse Survey, Waller County, Texas, and being out of and a part of that certain called 77.715 acre tract conveyed to Timothy J. Phelan in Instrument # 1505172 of the Official Public Records of Waller County, Texas as described in Exhibit "A" attached hereto and made a part hereof further known as Blocks 1 and 2, Timber Grove*
- (b) *As per proposed final plat of Timber Grove Subdivision as shown on Exhibit "B"*

Declarant desires to impose upon the Subdivision all the protective covenants, conditions and restrictions as set out herein, and to hereby impose a common plan and scheme of Restrictive Covenants applicable to the Subdivision so that there be a uniform plan for the improvement and development thereof and, to that end, Declarant desires to and does hereby impress and impose upon the Subdivision a universal scheme of restrictive covenants, each of which covenants shall run with the land and shall bind the Declarant and all persons hereafter owning or claiming any interest in any portion of the Subdivision for the period hereafter specified; and which such covenants shall inure to the benefit of and be enforceable by the Declarant and all future owners of any portion of the Subdivision, and their respective heirs, executors, administrators and assigns.

NOW, THEREFORE, it is hereby declared:

- (a) That all of the Subdivision shall be owned, held, used and encumbered, occupied, sold, conveyed and enjoyed subject to the following covenants, conditions and restrictions, which are for the purpose of protecting the value and desirability of the Subdivision, and shall run with the land of the Subdivision, and shall inure to the benefit of and shall be binding on all parties having any right, title or interest in or to the Subdivision or any part thereof, their heirs, successors and assigns; and that to effect such ends the Declarant hereby impresses upon the Subdivision the herein after provided covenants, restrictions and reciprocal negative easements; and,
- (b) That each and every deed, conveyance, deed of trust and all other contracts and agreements of every type and character that may hereafter be executed with regard to the Subdivision, any Subject Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to the following covenants, conditions, and restrictions, regardless of whether or not the same are set out and/or referred to in any said document, to-wit:

I
DEFINITIONS

In addition to their common meaning, the following terms shall have the following meanings and definitions as used herein:

1.01 **Owners**. "Owner or Owners" as used herein shall refer to:

- (a) Declarant, for so long as Declarant has any right, title or interest in or to any Subject Property; and,
- (b) Each and every Grantee of Declarant and their respective heirs, successors and assigns; and,
- (c) Any owner of any estate, interest or title to any Subject Property who shall later join in these covenants by later instrument, either adopting, ratifying, confirming, taking subject to or accepting the mutual and universal scheme of restrictive covenants created herein (including but not limited to any document which incorporates this restrictive covenant agreement reference); and,
- (d) All persons claiming any right, title or interest in or to any Subject Property, and their respective heirs, assigns, executors, administrators and successors.

1.02 **"Subject Property"** (and Subject Properties) means and includes each and all

of the platted lots or parcels located in TIMBER GROVE SUBDIVISION; including any subdivision, re-subdivision, modification, consolidation or re-designation of a Subject Property permitted by the terms hereof.

- 1.03 **"Subdivision"** means the **TIMBER GROVE SUBDIVISION** as described in Exhibit "A" hereunto and the Plat (as such Plat may be amended as herein provided) as per Exhibit "B".
- 1.04 **"Protective Covenants"** and /or **"Covenants"** shall mean and be a reference to all of the covenants, conditions, and restrictions set out in this Declaration. Perhaps among other references, this agreement is herein sometimes referred to as the **"Declaration"** and/or **"Restrictive Covenant Agreement"**.
- 1.05 References contained herein to the **"Official Public Records of Waller County, Texas"** and all similar references shall be deemed to be a reference to the official real property records of Waller County, Texas maintained by the office of the Waller County, Clerk; regardless of the name by which such records may be known at the relevant time.

II. **RESIDENTIAL USE ONLY**

- 2.01 **Residential Purposes.** Every Subject Property located within the Subdivision shall be used for single family residential purposes only, and no building or structure shall be erected, altered or placed on any Subject Property other than one detached garage for automobiles and equipment of the occupant, and barn, well house and similar outbuildings reasonably suitable and customary for use in connection with a residence in a rural environment consistent with and as permitted by terms hereof.

The terms **"Residential Purposes"** and **"Residence"** as used herein shall not be construed to permit barns, tents, campers, trailers, mobile homes or manufactured housing to be used as a residence except for the limited purposes set out herein. Under no circumstances shall mobile homes, temporary buildings or any structures other than those permitted hereby be erected or placed on an Subject Property for any purpose not expressly permitted under the terms hereof. No structure of a temporary character, including any trailer, mobile home, tent, shack or other outbuilding shall ever be used or permitted to be used on any Subject Property at any time as a residence, either temporarily or permanently; provided, however, that this provision shall not operate or be construed to:

- (a) prohibit the use of tents and RV's in connection with periodic recreational camping. However unless removed from the Subject Property when not actively camping, the RV shall be parked inside or under an approved structure.

- (b) prohibit the use of an RV or living quarters in an approved outbuilding for full time living during the construction of the main residence.

- 2.02 **One Residence.** Only one residence shall be constructed or permitted to exist on each Subject Property. However, in addition to outbuildings as may be permitted hereunder, it shall be permissible for a guest house and/or servant's quarters to be constructed and located on a subject property if and only if the same comply with the terms hereof and are ancillary to an existing single family residential structure which complies with the terms hereof.
- 2.03 **Square Footage Minimums & Related Matters.** No residence shall be constructed on any Subject Property in the Subdivision which has a first floor air-conditioned living area of less than 1,800 square feet (excluding porches, garages, patios, and the like). No guest house or servant's quarters may be constructed on any Subject Property which has a first floor living area of less than 500 square feet or more than 50% of the square footage of the main dwelling.
- 2.04 **Garages and Carports.** Every residence shall have a garage or carport (either attached or detached) with minimum outside dimensions of twenty (20) feet by twenty (20) feet.
- 2.05 **Time for Construction.** Construction of the primary residence structure on a Subject Property must be completed to occupancy within one (1) year of date such construction commences. One barn/outbuilding/shop/storage building may be constructed before the primary residence, but the construction of such building must be completed within six (6) months after the date construction commences on such building. Construction shall be deemed to "commence" at the time initial construction materials are delivered to the Subject Property.
- 2.06 **Sewage.** All residences constructed in the Subdivision shall have inside toilets and inside plumbing attached to septic tanks or other sewage or waste disposal systems approved by an appropriate governmental entity prior to connection thereto. There shall be no cesspools in the Subdivision, and all sewage waste and wastewater must be disposed of only through properly permitted, approved and constructed septic tanks and drain fields.
- 2.07 **Set-Back Lines.** All residences, barns, sheds, carports or buildings of any nature shall be constructed on Subject Property no closer than 100 feet to any public road or front building line and no closer than 20 feet to any side or rear property line. On Tract 4, Block 1 of Subdivision the front of the residence shall face Pinewood Valley Dr. and the driveway shall enter off of Pinewood Valley Dr.

- 2.08 **Architectural Control.** No buildings or improvements of any character shall be erected, constructed, placed or erection begun on any Subject Property until the construction plans and specifications and a plot plan showing the location of the structure or improvements have been submitted to the Declarant and approved as to compliance with these restrictions, as to quality of material, harmony of external design with existing and proposed structures, and as to location with respect to the building setback lines. Declarant shall review all plans and specifications and plot plans submitted to it within fourteen (14) days thereafter and shall issue its approval or disapproval thereof. In the event the required documents and information are not approved or disapproved within thirty (30) days after receipt thereof by the Declarant then approval will not be required and the requirements for approval shall be deemed to have been fully satisfied. Further, the approval required herein is conclusively presumed upon the substantial completion of the building and improvements.

At anytime, the then recorded owners of sixty percent (60%) of the Subject Properties shall have the authority by duly recording a written instrument to remove Declarant from Architectural Control and create an Architectural Control Committee and authorize such Committee to assume full authority hereunder and issue final approvals or disapprovals required hereunder.

III.

RESUBDIVISION & CONSOLIDATION

- 3.01 **Resubdivision by Declarant.** The Declarant or any Owner shall be entitled to re-subdivide any Subject Tract owned by Declarant or any Owner into one or more lots or parcels of land; provided that each re-subdivided lot shall contain an area of at least two acres of land, and all such permitted re-subdivided lots, as re-subdivided must have road frontage on a public road. Each Subject Tract re-subdivided by the Declarant or any Owner may amend the Plat to reflect such resubdivision.
- 3.02 **Consolidation.** Subject to the rights of others in and to any applicable easements, any Owner owning two or more adjoining platted lots may consolidate such lots into a single Subject Tract, with the privilege of constructing permitted improvements thereon in accordance with the terms hereof; in which case the building lines and setback lines shall be measured from the resulting combined tract lines rather than from the (former) singular tract lines. In order to consolidate such adjoining lots into a single Subject Tract, the Owner thereof shall:
- (a) Comply with the Subdivision Rules & Regulations adopted by Waller County, Texas as then in effect; and,
 - (b) File a written acknowledged declaration of such consolidation in the Official Public Records of Waller County, Texas which

shall contain a full legal description of the adjoining Subject Properties (lots) being so consolidated. Such written declaration is filed in the Official Public Records of Waller County, Texas and, once filed, such declaration is irrevocable.

IV.

OIL, GAS & MINERAL MATTERS

- 4.01 **Declarant's Waiver of Surface Use Rights.** No oil or gas well drilling, development operations, refining, boring or mining operations of any kind shall be permitted on the surface of any Subject Property by the Declarant or any Owner, and oil, gas and mineral leases hereafter executed by the Declarant or by any Owner (and their respective heirs, successors and assigns) shall be deemed so limited.

V.

ANCILLARY BUSINESS USAGE

- 5.01 **Permitted Usage.** Personal gardening, farming and the raising of domestic livestock and other matters expressly permitted herein shall not constitute a business use which violates the terms of these Restrictive Covenants.
- 5.02 **Animals and Livestock.** Each Subject Property within the Subdivision shall be allowed to keep one animal unit per acre, exclusive of family pets. For purposes of calculating one animal unit, cows and horses shall each count as one animal unit, and sheep or goats shall be considered one-half animal unit. A mother and her unweaned offspring shall constitute one animal unit. No swine shall be allowed within the Subject Property except for bonafide FFA or 4-H projects, and then only for the time required to properly complete such FFA or 4-H projects, and each Subject Property shall be limited to no more than 3 pigs for the project. Chickens or any manner of fowl shall be limited to ten (10) per subject property except for bonafide FFA or 4-H projects and then only for the time required to properly complete such FFA or 4-H project. Donkeys are prohibited.

VI.

USAGE AND OTHER RESTRICTIONS

- 6.01 **Noxious, Illegal or Offensive Activities.** No activities which violate any rule, regulation or law of any governing body having jurisdiction shall be permitted on any Subject Property. No noxious, offensive or illegal uses or activities may be conducted or permitted on any Subject Property. No activities, uses or conditions

shall be done, permitted or maintained on any Subject Property which is or becomes a nuisance.

- 6.02 **General Maintenance & State of Repair.** Each Owner or occupant of a Subject Property shall keep the Subject Property clean and free of trash, automobile and machinery salvage, and shall maintain improvements in a good state or repair. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any Subject Property, and no odors shall be permitted to arise from any Subject Property which causes or renders a Subject Property or any portion thereof to be unsanitary, unsightly, offensive or detrimental to any other Subject Property or to its Owners or occupants.
- 6.03 **No Salvage or Inoperative Equipment.** No stripped down, wrecked, junked or inoperable vehicle (severally and collectively a "Junk Vehicle") shall be kept, parked, stored or maintained on any portion of any Subject Property which is visible to public view from any road or from any lands within the Subdivision or from any lands adjacent to a Subject Property. Any and every Junk Vehicle must be at all times kept inside a closed garage or barn.
- 6.04 **Dumping.** No trash, ashes, garbage or other refuse may be thrown or dumped on any Subject Property in the Subdivision. No Subject Property shall be used or maintained as a dumping ground for rubbish or trash, and no garbage or other waste shall be kept except in sanitary containers. Refuse, garbage, and trash shall be kept at all times in covered containers, and all equipment for the storage or such materials shall be kept in a clean and sanitary condition. No trash, garbage or refuse of any type may be buried on any Subject Tract.
- 6.05 **Damaged or Destroyed Improvements.** Any building(s), structure(s) or improvement(s) on any Subject Property which may be destroyed partially or totally by fire, windstorm, storm or by any other means or cause shall be repaired and restored to its original condition within one (1) year after the event(s) causing such damage or destruction. If such repair or restoration of improvements is not completed within said 1 year period, then such damaged or destroyed improvement(s) shall be demolished and removed from the Subject Property within 90 days thereafter; all at the sole cost of the Owner of the Subject Property.
- 6.06 **Family Pets.** No Owner shall be permitted to maintain more than six (6) family pets per Subject Property. At all times family pets shall be under the control of the Owner and not allowed to roam freely and unattended beyond the limits of the Owner's Subject Property.
- 6.07 **Firearms.** Discharge of firearms is prohibited.
- 6.08 **Signs.** No signs, billboards, posters, or other advertising devices of any kind shall ever be erected on any Subject Property except a "For Sale" sign which shall be dignified and in keeping with the attractiveness of the Subdivision. This

provision shall not apply or operate to prohibit the display of small signs evidencing support for a political candidate or the support or opposition of a political referendum or amendment for a reasonable period of time prior to an election.

- 6.09 **Outside Storage of Items.** Boats, trailers, RVs, implements or any items stored outside may be stored on any Subject Property provided that such items shall be located only behind the rear building line of the residence.

VII EASEMENTS

- 7.01 **Utility Easements.** Easements for constructing, maintaining, and repairing a system for electricity, power, telephone and other utility services to the Subdivision and the inhabitants thereof are reserved as shown in the Plat.
- 7.02 **Beneficiaries of Easements.** All easements shown on the Plat or otherwise are hereby reserved and confirmed for the use and benefit of the Declarant and every other Owner of a Subject Property, and their respective heirs, successors and assigns.
- 7.03 **No Easement Interference.** No structure or other improvements or objects of any type shall be erected or maintained upon any of said easements.

VIII ENFORCEMENT, AMENDMENT, AND TERMINATION

- 8.01 **Enforcement.** The following persons shall each have the right and power (but not a duty or obligation) to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, and reservations now or hereafter imposed by the provisions of this Restrictive Covenant Agreement (as the same may be amended from time to time):
- (a) Each Owner of a Subject Property; and,
 - (b) The Declarant, for so long as the Declarant owns any part of the Subdivision or any other right, title, interest or claim related thereto.
- 8.02 **No Waiver.** The failure to enforce or to seek enforcement or any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- 8.03 **Binding Nature.** The grants, rights, covenants, conditions, and restrictions contained in this Restrictive Covenant Agreement shall run with and bind the land

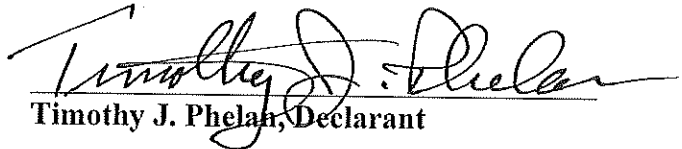
comprising the Subdivision, and shall inure to the benefit of and shall be binding upon the Owners of each Subject Property and their respective legal representatives, heirs, successors, and assigns.

- 8.04 **Term.** Unless amended as provided herein, this Restrictive Covenant Agreement shall be effective for a term of thirty (30) years from the Effective Date hereof, after which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years each unless amended or terminated as hereinafter set forth.
- 8.05 **Amendment/Termination.** This Restrictive Covenant Agreement may be amended, modified or terminated only by the following means and methods:
- (a) Subject to the provisions of sub-paragraph "(b)" below, this Restrictive Covenant Agreement may be amended, modified or terminated at any time only by a recorded written instrument signed and acknowledged by the Owners of not less than seventy percent (70%) of the Subject Properties (the lots) comprising the Subdivision at the time of the filing such instrument with the County Clerk of Waller County, Texas. No amendment, modification or termination hereof shall be effective, however, until such property executed document is filed with the Waller County Clerk for recording in the Official Public Records of Waller County, Texas. Any such amendment, modification or termination shall make specific reference to this Restrictive Covenant Agreement.
 - (b) Provided, however, that for so long as Declarant owns any interest in this Subject Property, no amendment, modification or termination of this Restrictive Covenant Agreement shall be valid or binding on any person unless and until Declarant has joined therein or consented thereto by a written instrument signed and acknowledged by Declarant (or Declarant's heirs, successors or administrators) and filed with the County Clerk of Waller County, Texas for recording in the Official Public Records of Waller County, Texas.
- 8.06 **Severability.** The provisions of these restrictions shall be deemed independent and severable, and the invalidity of or partial invalidity of any portion thereof by judgment or court order shall in no way affect any of the other provisions hereof and all of the other provisions hereof shall remain in full force and effect.
- 8.07 **Law and Venue.** This Declaration shall be construed in accordance with the laws of the State of Texas. This instrument is and shall be deemed to be wholly performable in Waller County, Texas; where venue shall be for any action touching or concerning this Declaration or any matter related hereto.
- 8.08 **Construction.** If these Restrictive Covenants or any word, clause, sentence, paragraph or other part thereof shall be susceptible to more than one or conflicting

interpretations, the general purposes and objectives of these Restrictive Covenants shall govern.

- 8.09 **Captions.** The captions in this Declaration are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration or the intent of any provision thereof.
- 8.10 **Pronouns, etc.** The singular wherever used herein shall be construed to mean the plural where applicable, the pronouns of any gender shall include the other gender, and the necessary grammatical changed required to make the provisions hereof applicable to individuals, corporations, trusts, partnerships, or other entities shall in all cases be assumed as though in each case fully expressed.
- 8.11 **Multiple Originals.** This Restrictive Covenant Agreement may be executed in multiple originals, each of which shall constitute but one and the same agreement.

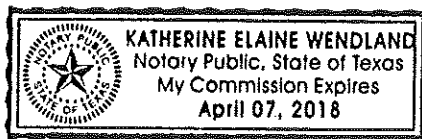
IN WITNESS WHEREOF, the Declarant hereby executes this Restrictive Covenant Agreement as of the 2nd day of November, 2015 (the "Effective Date").


Timothy J. Phelan, Declarant

THE STATE OF TEXAS

COUNTY OF WALLER

This instrument was acknowledged before me on the 2nd day of November, 2015 by **Timothy J. Phelan.**



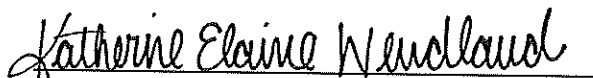

Notary Public, State of Texas
My commission expires: April 07, 2018

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION FOR BLOCKS 1 AND 2, TIMBER GROVE

Being out of and a part of the Preston Pevehouse Survey, A-234, also referred to as the Upper Pevehouse Survey, Waller County, Texas, and being out of and a part of that certain called 77.715 acre tract conveyed to Timothy J. Phelan in Instrument # 1505172 of the Official Public Records of Waller County, Texas, and being more particularly described by metes and bounds as follows:

NOTE: The bearings in this description are based on the Texas State Plane Coordinate System, Central Zone, NAD 83, as determined using LEICA GPS equipment.

BEGINNING at a fence corner post found at the northeast corner of the called 77.715 acre tract, in the south line of Pinewood Valley Drive, a 60' wide right of way, and the east line of that certain easement conveyed to Waller County in Volume 226, Page 331 of the Deed Records of Waller County, Texas;

THENCE S01°52'39"E along the east line of the called 77.715 acre tract and the east line of said easement, in Joseph Road, a distance of 1,174.20 feet to a point for corner;

THENCE S02°36'43"E continuing along the east line of the called 77.715 acre tract a distance of 728.50 feet to a point for corner;

THENCE S02°08'31"E continuing along the east line of the called 77.715 acre tract a distance of 596.68 feet to the southeast corner of said tract;

THENCE S84°08'22"W along the south line of said tract a distance of 904.15 feet to a 1" iron pipe found for the southernmost southwest corner of said tract;

THENCE N04°53'58"W along a west line of said tract a distance of 282.06 feet to a 5/8" iron rod found for corner;

THENCE N04°26'18"W continuing along a west line of said tract a distance of 947.01 feet to a point for corner;

EXHIBIT "A" (CONTINUED)

THENCE N88°00'26"E a distance of 939.86 feet to a point for corner in the west line of the above cited Waller County easement tract recorded in Volume 226, Page 331;

THENCE N01°59'43"W along the west line of said easement a distance of 501.32 feet to a point for corner;

THENCE S88°00'26"W a distance of 883.18 feet to a point for corner;

THENCE N01°59'34"W a distance of 817.18 feet to a point for corner in the south line of Pinewood Valley Drive;

THENCE N87°06'33"E along the north line of the called 77.715 acre tract and the south line of Pinewood Valley Drive a distance of 893.18 feet to the place of BEGINNING, containing 42.498 acres of land, more or less.

FILED AND RECORDED

Instrument Number: 1507346

Filing and Recording Date: 11/02/2015 11:06:47 AM Pages: 14 Recording Fee: \$64.00

I hereby certify that this instrument was FILED on the date and time stamped hereon by me and was duly RECORDED in the OFFICIAL PUBLIC RECORDS of Waller County,



Debbie Hollan

Debbie Hollan, County Clerk
Waller County, Texas

ANY PROVISION CONTAINED IN ANY DOCUMENT WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE REAL PROPERTY DESCRIBED THEREIN BECAUSE OF RACE OR COLOR IS INVALID UNDER FEDERAL LAW AND IS UNENFORCEABLE.

Stephanie Tompkins, Deputy

Returned To:
WALLER COUNTY LAND COMPANY
P O BOX 1274
WALLER, TX 77484