

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR PRESTON CLUB, GRAYSON COUNTY, TEXAS**

Drew C. LaBarbera and Robert J. Tate, ("Declarant"), owners of The Legends Subdivision Phase II, a platted subdivision in Grayson County, Texas as per plat filed of record in Volume 10, Page 31 of the Plat Records of Grayson County, Texas hereby impose restrictive covenants and conditions on said property for the benefit and protection of the owners of said property and the regulation of the use of the property.

These restrictive and protective covenants and conditions apply only to lots one (1) through twelve (12) of Block 10 of Preston Club - The Legends Subdivision Phase II as per plat thereof recorded in Volume 10, Page 31 of the Plat Records of Grayson County, Texas. These restrictive and protective covenants and conditions may be imposed on other property by reference hereto as set forth herein, but "Declarant" expressly reserves the right to include or to exclude other land from these restrictive covenants and conditions.

Covenants, conditions and rights hereof are set out as follows:

**1 Definitions.**

In addition to the terms defined and elsewhere defined, the following terms shall have the meanings hereinafter specified:

- 1.1 Architectural Control Committee: The Architectural and landscaping control committee having jurisdiction over the Preston Club property.
- 1.2 Articles and By-laws: The Articles of Incorporation and By-laws of the "Association", respectively.
- 1.3 Association: Shall refer to the PRESTON CLUB HOMEOWNERS ASSOCIATION.
- 1.4 Board: The Board of Directors of the "Association".
- 1.5 Common Area: Any and all areas of land owned, leased or otherwise held by the "Association" for the common use and enjoyment of the "Owners" and Residents, including easements, private streets, perimeter landscaped lots and licenses, together with any and all improvements that are now or that may hereafter be constructed thereon. However, the "Common Areas" shall not include the separate privately owned Preston Club Golf Course and Country Club geographically situated throughout Preston Club Estates
- 1.6 Country Club: The property and improvements located in the Preston Club development area used for general club purposes by the property owners, operators and members of the Country Club organized in connection with the creation and use of a golf course. The "Country Club" property may be

owned and operated by "Declarant", or "Declarant's" assigns, or may be operated by a licensee of a "Declarant" or "Declarant's" assigns.

1.7 Declarant: Drew C. LaBarbera and Robert J. Tate.

1.8 Declaration: This Declaration of Covenants, Conditions and Restrictions, as amended from time to time.

1.9 Developer: Any person or entity which purchases five (5) or more lots at one time for the purpose of development.

1.10 Golf Course: The property of "Declarant" or the assigns of "Declarant" placed into use as golf course which may or may not include some or all of the "Country Club" property and may be operated by "Declarant", "Declarant's" assigns or a licensee of "Declarant" or "Declarant's" assigns.

1.11 Lot: A tract of land including a portion of a platted lot in the Subdivision.

1.12 Member: A member of the "Association".

1.13 Owner: The record owner, or owners if more than one, of a Lot, including "Declarant" to the extent that "Declarant" owns any lots.

1.14 Property: Preston Club The Legends Subdivision Phase II as described in plat recorded in Volume 10, Page 31, of the Plat Records of Grayson County, Texas.

## 2. Use Restrictions.

The use of the property of each "Lot" shall be restricted in accordance with the following provisions in addition to all other covenants, conditions, and restriction herein contained or elsewhere provided.

2.1 One Family Dwellings. No "Lot" shall be used for any purpose except for the erection and maintenance thereon of one (1) private dwelling house designed for the occupancy of a single family and reasonable and customary accessory structures not designed or used for living quarters except by domestic servants living on the premises. No "Lot" shall be used in conjunction with any purpose inconsistent with a private dwelling house use.

2.2 Lot size. No "Lot" shall be smaller than the smallest platted "Lot" in the "Property".

2.3 Frontage. All dwellings shall be constructed to front on the street on which the "Lot" fronts, unless the "Lot" in question fronts on two streets, in which case the dwelling constructed on such "Lot" shall front as the "Declarant" and the "Architectural Control Committee" may approve on either of two streets, or partially on both.

2.4 Setbacks and side lots. All dwellings and accessory structures shall be erected and maintained behind the building line as shown on the Plat or twenty feet (20) from the front of the "Lot" whichever is greatest. No accessory structure shall be erected within twenty-five (25) feet of a rear "Lot" line and no dwelling or accessory building shall be constructed nearer than five feet (5) to a side "Lot" line.

2.5 No building shall be erected, altered, placed or permitted to remain on any "Lot" other than a detached single family dwelling not to exceed two and one-half (2 1/2) stories in height, an attached garage for not more than four (4) cars and a servant's house for the use of bona fide servants.

2.6 The floor area of the main structure exclusive of one story open porches and garages shall be as follows:

Lots and block numbers with structural square feet applicable thereto are set out in Exhibit "A" attached hereto and made a part hereof for all purposes.

2.7 All dwellings shall be constructed of stone, masonry, brick, stucco or of a glass building material of the kind usually used for outside wall construction, to the extent of one-hundred (100%) percent of the area of the outside walls. Any deviation from the preceding may be specifically approved by the "Architectural Control Committee".

2.8 All roofs constructed upon any dwelling and/or other structures constructed, erected, or located upon any "Lot" shall be constructed with a minimum pitch of 8' by 12' and shall be constructed of hand-split wood shake, slate, tile, or composition roofing shingles in "earth-tone" colors having a minimum weight of 250 pounds per square unless a variance from this restriction is specifically approved in writing by the "Architectural Control Committee".

2.9 (a) Any enclosures other than side "Lot" privacy fencing shall be made with approved Board and Batten fencing with color to be approved by the "Architectural Control Committee", not to exceed six (6) feet in height. No fence shall be placed on any "Lot" nearer to any front street than is permitted for the dwelling on said "Lot". Any hedge, shrub, tree, flower or other planting encroaching upon adjoining property shall be removed upon the request of the adjoining property owner or the "Architectural Control Committee".

(b) Board and Batten fencing must be installed on entire back property line and connected to adjoining or side fencing, constructed in accordance with paragraph 2.9 (a) hereof.

(c) A privacy fence constructed of brick, landscaped hedges or same masonry construction material used in the dwelling unit may be built at the side lot provided it does not come within twenty-five feet (25') of the back property line and does not come within ten (10) feet of the front of the main dwelling. Any side fencing must be constructed to the prescribed fencing for the back lot and must be pre-approved by the "Architectural Control Committee".

2.10 No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except dogs and cats. Dogs and cats may not exceed two (2) in the aggregate, can not be allowed to roam at large, and may not be kept, bred or maintained for any commercial purpose.

2.11 No sign shall be erected or maintained on any "Lot" except a "for sale" or "for rent" sign not

exceeding six (6) square feet in size or a sign owned by the "Declarant". Street address identification shall be uniform in a manner prescribed and approved by the "Architectural Control Committee".

2.12 No external radio, television, or other aerial antenna shall be permitted and no aerial antenna shall be maintained on any "Lot" not containing a dwelling. No television satellite dish (other than direct television), microwave receiving unit or other similar structure shall be erected, maintained or permitted on any "Lot", unless approved by the "Architectural Control Committee".

2.13 Side entry garages, driveways, and automobile aprons shall be constructed on any lot adjoining the "Golf Course" or in line of sight from the "Golf Course" shall have sight screening which is architecturally consistent with the design of the house if deemed necessary at the discretion of the "Architectural Control Committee". Sight Screening may include walls, fences, landscaping or hedges approved by the "Architectural Control Committee", which will ensure the screening of garage doors and garage contents and parked automobiles. No rear entry garages shall be constructed on any lot adjoining the "Golf Course" on in line of sight from the "Golf Course", unless approved by the "Architectural Control Committee". Front entry garages will be permitted only upon approval by the "Architectural Control Committee".

2.14 No "Lot" or any portion of a "Lot" shall be used for the dumping or storage of rubbish, trash, rubble, surplus soil or rocks, etc.

2.15 A trailer, camper or boat or other similar vehicle may be stored or kept on any "Lot" only if housed completely within a structure architecturally harmonious and attached to the main dwelling and if such structure is approved by the "Architectural Control Committee".

2.16 Any portion of any "Lot" that is exposed to the public view must be maintained by the property "Owner" in a neat and orderly fashion. In the event this restriction is not complied with, the "Association" has the right to cause this maintenance to be done at the expense of the property "Owner".

2.17 No development operation, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any "Lot", nor shall oil wells, water wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any "Lot". No derrick or other similar structure shall be erected, maintained or permitted upon any "Lot".

2.18 No out-buildings, shop, trailer, mobile home, storage shed, barn, tent or preconstructed building shall be used on any "Lot" as a permanent or temporary residence shall be permitted. No building material of any kind or character shall be stored upon any "Lot" until the "Owner" is ready to incorporate the building materials into improvements.

2.19 Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any "Lot".

2.20 All front and back yards must be equipped with an underground sprinkler system and be sodded with Common or 328 style Bermuda grass. Driveways must be of brick, concrete, or pave stone approved

by the "Architectural Control Committee".

2.21 All entrances shall provide for low water crossings. No culverts shall be installed. Such entrances shall not impede the flow of drainage of water over and across the "Lot" or any ditches.

2.22 No noxious or offensive activity shall be carried on upon any "Lot", nor shall anything be done thereon which may become an annoyance or nuisance the neighborhood.

2.23 No exterior lights for tennis courts and/or swimming pools, until express written approval is obtained from the "Architectural Control Committee". Should such lighting become objectionable to any other Owner, the "Architectural Control Committee" may require alteration or removal of the lighting.

2.24 All houses and permitted structures shall be completed within nine (9) months, once construction is commenced. The housing of the mailboxes for residential structures shall be constructed of like masonry material and built to the exact specifications declared by the "Architectural Control Committee". There shall be no exterior newspaper tubes or freestanding mailboxes, except as may have been initially installed by "Declarant" or in accordance with the exact specifications of the "Architectural Control Committee".

2.25 No equipment or machinery, including but not restricted to automobiles, boats, trailers, tractors and motorcycles, shall be allowed to remain on any portion of any "Lot" for more than twenty-four (24) hours except in an attached garage. Provided, however, this restriction shall not apply to machinery used in the construction during construction on the "Property" or to vehicles of temporary house guests.

2.26 No platted "Lot" shall be further subdivided without prior written consent of the "Architectural Control Committee".

2.27 No garage and storage area shall be converted, at any time, into or be regularly used as part of the living area, recreational area or family area, unless prior to such conversion there shall be erected a comparable garage and storage area attached to main dwelling, with concrete driveway and concrete floor at least equal in size to that so converted.

2.28 Under no circumstances or conditions shall any automobile or other vehicle be parked on a non-paved portion of any "Lot".

2.29 If homeowner wishes to have propane or other stored gas, the location of gas storage shall be located underground in accordance with local regulations and must be approved by the "Architectural Control Committee".

2.30 Construction of the primary residence on each "Lot" must begin within two years after the sale of the "Lot" by the client unless express written approval for deferred construction is obtained from the "Architectural Control Committee". If construction of the primary residence is not started within two years from the date of the initial sale, declarant had the right but not the obligation to repurchase the property at seventy-five (75%) percent of the original sales price.

**3. Residential Maintenance Requirements**

3.1 The "Owner" of each "Lot" shall be responsible for the maintenance of the "Lot" in a neat and attractive condition which will include:

- (a) Planting, maintaining and replacing if necessary at least one live oak tree of no less than two inches of trunk diameter.
- (b) Planting or sodding grass or ground cover, regularly fertilizing and mowing grass, never letting the grass of any established lawn exceed more than four inches in height.
- (c) Removing all dead trees and shrubbery from the "Lot".

(d) Each "Lot" "Owner" is responsible for maintaining the lawn over that portion of the included in easement and setback areas.

**4. Common Areas.**

4.1 Each "Owner" shall be liable to the "Association" for any damages to any portion of the "Common Areas" caused by the negligence or willful misconduct of the "Owner" or his family or guests.

4.2 The "Board" shall have the power and authority to prescribe rules and regulations governing the use of "Common Areas" which extend to and cover such matters as (but not limited to) smoking, the possession and consumption of alcoholic beverages, loud obnoxious noises and behavior, dress and attire and the supervision by attending adults of children. No person ( excluding the "Declarant" ) shall use any portions of the "Common Areas" to:

A. Solicit, promote or conduct business, religious, political or propaganda matters;

B. Distribute handbills, newsletters, flyers, circulars or printed material,

without the written consent of the "Association" (which consent may be withheld in its sole and absolute discretion). The "Association" may, on its own motion, permit and allow town hall meetings, voting precincts, community garage sales and bazaars and other reasonable activities to occur on the "Common Areas" in accordance with the rules and regulations deemed reasonable and appropriate by the "Association".

**5. Easements Reserved.**

5.1 Utilities. No building or other permanent structure shall be erected or maintained within areas designated on the Plat as Utility and drainage easements. "Declarant" reserves a perpetual easement in, on and under the lots of the width and extent as shown on the Plat, for the purpose of laying, placing and maintaining utilities, and "Declarant" reserves a perpetual easement in, on and under the streets as shown on the Plat, for the purpose of laying, placing and maintaining the utilities, with the right to go upon such lots and streets to place, erect, repair, maintain and remove utility installations without interference.

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5.2 Grade adjoining Golf Course. "Declarant" reserves the right to reasonably change and maintain the grade along and within the boundary line of any "Lot" to conform the grade thereof to the adjoining boundary line of the "Golf Course" on which any such line shall abut the "Golf Course" prior to or subsequent to the time a dwelling house may be erected on any "Lot".

5.3 Streets. Private streets are reserved for the use of "Declarant", "Declarant's" successors, and assigns, "Owners" of "Lots" in the "Property", "Owners" of "Lots" in "Property" to be annexed at a later date within the general area of the Preston Club Development, members of the "Country Club" and permitted users of the "Golf Course". Right to use streets shall also extend to guests, employees, servants, any "Owner", a contractor performing services for an "Owner" of a "Lot" or property in a subsequently developed property. The "Association" shall the responsibility for repair and maintenance of private streets out of regular and special assessments from its "Members".

6. Additions to the existing Property.

These Restrictive Covenants shall initially apply only to Preston Club - The Legends Subdivision Phase II as afore said and "Declarant" has no obligation express or implied to impose the same or similar restrictions on any other property. However, additional land may be subject to this "Declaration" in the following manner:

(a) "Declarants" together and "Declarant" LaBarbera separately presently own approximately 270 acres of land general known as the Preston Club area. Any of the land presently owned by "Declarants" jointly or by "Declarant" LaBarbera individually may be included in the restricted area covered by these restrictions if "Declarant" files a Supplementary Declaration which incorporates all or part of these restrictions and which may contain additional or different terms and conditions and in such event the entire area so declared will be covered by these general restrictions subject to whatever modifications, changes or differences may exist between individual areas as set out in such Supplementary Declaration.

(b) Upon approval in writing by "Declarant" and of the "Association" pursuant to a vote of the "Members" as provided in its "By-laws", the owner other than "Declarant" of any property desiring annex of such property to the restricted area and having the owners of lots in such property become members of the "Association", may file of record a Supplementary Declaration of Covenants and Restrictions which shall extend the scheme of covenants and restrictions of this "Declaration" to such property. The Declaration may incorporate all or any part of the restrictions and may impose additional restrictions and covenants. However Supplementary Declaration must be presented and approved by "Declarant" and the "Association" as aforesaid in its final wording before it may be filed and before such property becomes annexed to the restricted area.

(c) Upon a merger or consolidation of the "Association" with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the "Association" as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and

restrictions established by this "Declaration" within the existing property together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this "Declaration" with the existing property except as hereinafter provided.

Common Areas designated in the Declaration of addition property under these Restrictions shall be Common Areas within the definition of these restrictions subject to use requirements and maintenance as heretofore provided. Unless otherwise specified in the Declaration, property owners of the added property shall be members of the "Association" and responsible for dues and assessments as all other "Members" of the "Association".

**7. Membership and Voting Rights in the Association.**

7.1 Every person or entity who is a record "Owner" of a fee interest in any "Lot" and which is subject by covenants of record to assessment in the "Association" shall automatically be a "Member" of the "Association" provided that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a "Member". The "Association" shall have two classes of voting membership:

CLASS A. Class A "Members" shall be all those "owners" defined in this Section with the exception of "Declarant". Class A "Members" shall be entitled to one vote for each lot in which they hold an interest required for membership. When more than one person holds such interest or interests in any "Lot", all such persons shall be "Members" and the vote for such "Lot" shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any such "Lot".

CLASS B. Class B members shall be the "Declarant". The Class B "Member" shall be entitled initially to the one vote for each "Lot" in which it holds the interest required for membership, and the Class B "Member" shall be entitled to the said three votes for each "Lot" in which it holds the required interest at all times when the total "Lots" owned by the Class B membership is greater than one-third of the total "Lots" owned by the Class A membership, provided however, that when the total "Lots" owned by the Class A membership equals or exceeds three times the total "Lots" owned by the Class B membership, the Class B "Member" shall, during the time such equality or excess continues, be entitled to only one vote for every "Lot" and provided further that from and after December 31, 2020, notwithstanding the provisions of this section, the Class B "Member" shall be entitled to only one vote for every such "Lot".

7.2 "Declarant" shall own one (1) membership for each "Lot" owned by them in the subdivision and shall be entitled to all rights and privileges of Membership in the "Association" with respect to each Membership it holds; however, "Declarant" shall not be assessed dues on its Membership. Anyone acquiring a "Lot" from "Declarant" shall automatically become a "Member" of the "Association" as above provided, except a "Developer" buying five (5) or more "Lots" for the purpose of resale before or after construction of improvements, and such "Developer" shall have the same rights and privileges as to Membership as provided for "Declarant", except that the "Developer" will only obtain the rights of Class A "Members".

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**8. Lot Owner Assessments**

8.1 The "Declarant" for each "Lot" owned by it within the "Properties" hereby covenants and each purchaser of any "Lot" by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to pay to the "Association": (1) annual assessments or charges; (2) special assessments for capital improvements; (3) reimbursement assessment, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessments is made. The inception of the lien shall be the date of the assessment. Each such assessment together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the "Owner" of the "Lot" at the time when the assessment fell due on the "Lot".

8.2 The assessments levied by the "Association" shall be used exclusively for the purpose of preserving the property values and of promoting the recreation, health, safety and welfare of the residents and "Owners" in the "Properties", and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and directly related to the use and enjoyment of the "Common Areas" and of the homes situated upon the "Properties", including, but not limited to, the payment of taxes and insurance thereon and repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof, and for carrying out the purposes of the "Association" as stated in its "Articles of Incorporation and By-laws".

8.3 An "Owner" is required to pay annual assessment fee of three hundred dollars (\$300.00) or its pro rata portion calculated on a calendar year basis at the time of the real estate lot closing, per "Lot". All "Owners", unless herein exempted, shall pay their annual fee on or before the date of January 1st. These covenants and restrictions shall serve as written notice of the next annual assessment fee and satisfy any and all written notice requirements for "Owners" mentioned herein. From and after such January 1st anniversary date the annual assessment shall automatically increase for each subsequent Fiscal Year by five percent (5%) of the previous years assessment.

8.4 The "Board" of the "Association" may, after consideration of current maintenance costs and future needs of the "Association", fix the actual assessment for any year at a lesser amount.

8.5 In addition to annual assessments, the "Association" may levy in any year a special assessment, applicable to the year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the "Common Areas", including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds of each class of its membership, voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be given to all "Members at" least thirty (30) days in advance and shall set forth the purpose of the meeting.

8.6 Change in Annual Assessments. Subject to the limitations hereof, and for the periods therein

specified, the "Association" may change the annual assessments fixed hereunder for a specified period, provided that any such change shall have the assent of two-thirds of each class of its membership, voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be given to all "Members" at least thirty (30) days in advance and shall set forth the purpose of the meeting, provided further that the limitations hereof, shall not apply to any change in assessments undertaken as an incident to a merger or consolidation in which the "Association" is authorized to participate.

9. Quorum for Change in Annual Assessment or Special Assessment

The quorum required for any change in Annual Assessment or Special Assessment hereof shall be as follows:

At the first meeting called, as provided herein, the presence at the meeting of "Members", or proxies, entitled to cast sixty (60) percent of all of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth herein, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

10. Date of Commencement of Annual Assessments

10.1 The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the "Board" to be the date of commencement.

10.2 The first annual assessments shall be made for the balance of the calendar or fiscal year and shall become due and payable on the close of the "Lot" purchase. The assessments for any year, after the first year, shall become due and payable on the first day of the calendar or fiscal year as so selected by the "Board".

10.3 The amount of the annual assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for herein as the remaining number of months in that "Association" year bears to twelve; the same reduction in the amount of the assessment shall apply to the first assessment levied against any property which is hereafter added to the "Properties" now subject to assessment at a time other than the beginning of any assessment period.

10.4 The due date of any special assessment, shall be fixed in the resolution authorizing such assessment.

11. Reimbursement Assessment

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The "Association" shall levy an assessment against any "Owner" as a result of whose failure to comply with these restrictions, the "Association" rules and/or the "Architectural Control Committee" rules and monies that were expended by the "Association" from the operating fund in performing its functions under these restrictions. Such assessments shall be for the purpose of reimbursing the "Association", shall be limited to the amount so expended and shall be due and payable to the "Association" when levied.

**12. Duties of the Association and the Board of Directors**

12.1 The "Board" shall fix the date of commencement and the amount of the assessment against each lot for each assessment period at least thirty (30) days in advance of such date of period and shall, at that time prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the "Association" and shall be open to inspection by any "Owner".

12.2 Written notice of the assessment shall thereupon be sent out to every "Owner" subject thereto.

12.3 The "Association" shall upon demand at any time furnish to the "Owner" liable for said assessment a certificate in writing signed by an officer of the "Association", setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

12.4 The "Board", on behalf of the "Association", shall have full power and authority to contract with any "Owner" ( including, without limitation, the "Declarant" ) for performance, on behalf of the "Association", of services which the "Association" is otherwise required to perform pursuant to the terms hereof, such contracts to be upon such terms and conditions and for such consideration as the "Board" may deem proper, advisable and in the best interest of the "Association". The "Association" may also coordinate and/or contract with the owner (s) and /or operators of the privately owned Preston Club Golf Course and Country Club areas within the properties concerning landscaping, irrigation, maintenance, plantings and related matters.

12.5 The "Association" shall have the right and option to purchase, carry and maintain in force insurance covering any and all portions of the "Common Areas", any improvements thereon or appurtenant thereto, for the interest of the "Association", its "Board of Directors", officers, managers, agents and employees, and of all "Members" of the "Association", in such amounts and with such endorsements and coverage as shall be deemed appropriate by the "Board" and/or as specifically required by the eligible Mortgagees or eligible insurers. Such insurance may include, but need not be limited to:

- A. Insurance against loss or damage by fire and hazards covered by a standard extended coverage endorsement in an amount which shall be equal to the maximum insurable replacement value, excluding foundation and excavation costs;
- B. Comprehensive public liability and property damage insurance on a broad form basis, including coverage of personal liability ( if any ) of

the "Board of Directors", "Owners" and "Members" in respect to the "Common Areas";

- C. Fidelity bonds for all officers and employees of the "Association" having control over the receipt or disbursement of funds; and
- D. Liability insurance regarding the errors and omissions of Directors, officers, managers, employees and representatives of the "Association".

12.6 The "Association" shall be the exclusive representative of the "Members" in any proceedings, negotiation, settlements or agreements concerning insurance or condemnation applicable to "Common Areas". The "Association" and the "Members" may use the net insurance or condemnation proceeds to repair and replace any damage or destruction to property, real or personal, covered by such insurance or condemnation. Any balance from the proceeds of insurance or condemnation paid to the "Association", remaining after satisfactory completion of repair or replacement or after the Board has elected to waive the repair, restoration or replacement, shall be retained by the "Association" as part of a general reserve fund for repair and replacement of the "Common Areas".

12.7 If the insurance or condemnation proceeds are insufficient to repair or replace any loss or damage of or to the "Common Area", the "Association" may levy a special group assessment as provided for in section 11 of this declaration to cover the deficiency.

12.8 Neither any "Owner" nor the Directors, officers, or managers of the "Association" shall be personally liable for debts contracted for or otherwise incurred by the "Association" or for any torts committed by or on behalf of the "Association" or for a tort of another "Owner", whether such "Owner" was acting on behalf of the "Association" or otherwise. Neither the "Declarant", the "Association", its "Board", officers, managers, agents or employees shall be liable for any actual, incidental or consequential damages for failure to inspect any premises, improvements or portion thereof or for failure to repair or maintain the same. The "Declarant", the "Association" or any other person, firm or corporation liable to make such repairs or maintenance shall not be liable for any personal injury or other actual, incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, improvements or portion thereof.

### 13. Effect of Non-Payment of Assessment

13.1 If the assessments are not paid on the date when due, then such assessment shall become delinquent and shall together with such interest thereon and cost of collecting thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then "Owner", the "Owner's" heirs, administrators and assigns. The personal obligation of the then "Owner" to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors of title unless expressly assumed by them.

13.2 If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the due date at the maximum rate of interest allowed by law and the "Association" (or such

lower rate set by the "Board" of the "Association") may bring an action at law against the "Owner" personally obligated to pay the same or to foreclose the lien against the property and there shall be added to the amount of such assessment the costs of preparing and filing the complaint shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action.

**14. Subordination of the Lien to Mortgages**

The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the lot subject to assessments provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the sale of such property pursuant to a decree of foreclosure of any such mortgage. Such sale shall not prevent the property from being liable for any assessments thereafter becoming due nor from the lien of any such subsequent assessment.

**15. Exempt Property**

The following property subject to this "Declaration" shall be exempted from the assessments, charge and lien created herein: (a) all properties dedicated and accepted by the local public authority and devoted to public use; (b) all "Common Areas" as defined under definitions as "Common Area"; (c) all properties exempted from taxation by the laws of the State of Texas, upon the terms and to the extent of such legal exemption; (d) exempt from the payment of assessments are "Developers" and the "Declarant"; (e) specifically exempted from the provisions of these restrictions are the "Country Club" and Developers of the Country Club and any construction, maintenance or sale of the "Country Club" and the property upon which the "Country Club" or "Golf Course" are located. The "Declarant" or any "Developer" shall not be responsible for any costs of the maintenance and operation of the properties or any costs incurred by the "Association" for the operation of the project, including but not limited to, road maintenance, sign maintenance, gutters, other normal maintenance related to the project. Said release from payment or assessments shall in no way limit the "Declarant" or the "Developers" in the amount of the ownership of the dwelling unit he shall own, but shall be exempt from payment as provided for in this "Declaration" or in any future amendments to said "Declaration". Notwithstanding anything to the contrary herein contained, this paragraph may not be amended under any circumstances.

**16. Enforcement.**

These Covenants and restrictions shall run with the land and shall be binding upon the "Declarant" and all parties claiming by, through and under the "Declarant", and all such parties shall be taken to hold title subject to, and to agree and covenant with "Declarant" and with each other to observe all of these covenants and restrictions, as herein set forth; however, no parties shall be personally liable for breeches hereof occurring at any time when such party is not the legal title holder of the lot when such violation occurs. "Declarant" and any owner in the subdivision shall have the right to these conditions, restrictions and

covenants by suit for damages, injunction, or specific performance, to obtain injunction, prohibitive or mandatory, to prevent the breach of or to otherwise enforce the observance of these covenants and restrictions. Failure to enforce a breach of any covenant or restriction shall not be deemed to be a waiver or a violation of such restriction or and other restriction contained herein. Neither the "Declarant" nor the "Association" shall have any affirmative duty to enforce these restrictions but the right to enforce these restrictions shall be held by the "Declarant", the "Association" and any "Property Owner".

17. Lien Securing Payment of Assessments.

The lien securing the payment of any unpaid assessment may be placed of record by Affidavit signed by the President of the "Association" describing the property upon which the lien exists, the reason for the lien and the property secured by the lien. The debt secured by the lien may include accrued interest, attorneys' fees for the preparation of the lien affidavit and the estimated fees for filing said affidavit. No lien filed against any lot for maintenance expenses, the owner was served with notice of defective notice ten days before the maintenance work was performed by the "Association", stating the required maintenance and giving the "Owner" ten days to perform or have such maintenance performed before the maintenance was performed by the "Association". No lien shall be enforceable unless the affidavit is filed within one year after the due date of the unpaid assessment.

18. General

18.1 Notwithstanding any other provision hereof, "Declarant" reserves the right (upon application and request of the "Owner" of any "Lot") to waive, vary or amend (by an appropriate letter to that effect addressed and delivered to such applicant owner by "Declarant") the application of any of these covenants and restrictions to such "Lot", if, in the sole discretion of the "Declarant", such action be necessary to relieve hardship or permit good architectural planning to be effected. "Declarant" also reserves the right:

(a) to redivide and re-plat any of the property shown on the Plat at any time if owned by the "Declarant"; and,

(b) To change the location of streets and easements prior to the time the same be actually opened for public use or availed of by the public or by public utilities. In no case, however, shall any such waiver, variance, amendment or change deprive any "Owner" of a "Lot" to reasonable access to such "Lot".

18.2 No additional covenants and restrictions imposed by "Declarant" in any contract of deed in respect to any lot shall modify or vary the general development plan as herein set out, but any such additional covenant or restriction shall not otherwise be rendered invalid.

18.3 The invalidation by any court, of any reservation, covenant and restriction contained herein or in any contract or deed shall not impair the full force and effect of any other reservation, covenant or restriction.

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18.4 The provisions hereof are hereby made a part of each contract and deed in respect of any "Lot" to the same effect as if fully set forth therein, and each such contract and deed shall be conclusively held to be executed, delivered and accepted upon and subject to the provisions and conditions herein set forth.

18.5 "Declarant's" interpretation of the meaning and application of the provisions hereof shall be final and binding on all interested parties at any time in question.

18.6 "Declarant" may at any time appoint a committee of one or more persons to exercise any or all of the discretionary rights and powers reserved herein to "Declarant".

18.7 "Declarant" may assign to any person or corporation any or all rights, powers, reservations, easements and privileges herein reserved by and to "Declarant" and any such assignee shall have the same right to assign.

#### 19. Architectural Control Committee

19.1 No excavation, clearing, or landscaping of a lot and nor erection of any buildings or exterior additions or alterations to any building situated upon the "Properties" nor erection of or changes or additions in fences, hedges, walls and other structures shall be commenced, erected or maintained until the plans and specification, and in the event of new construction, soil tests, showing the nature, kind, shape, height, condition of the soil (in the event of new construction) materials, and location of the same and the name of the contractor shall have been submitted to and approved in writing with harmony of external design, appearance, and location in relation to surrounding structures according to the rules, regulations of the "Architectural Control Committee" Rules and any guidelines as set forth in the "By-laws" of the "Association". The organization, designation of members and terms of office, duties, meetings, rules, application for approval of improvements, basis for approval of improvements, form of approval, proceeding with work, failure to complete work, inspection of work, application for preliminary approval, waiver, estoppel certificates, liability, and builder approval are as set forth in the "By-laws" of the "Association" and may be change from time to time as allowed therein. Notwithstanding anything to the contrary herein, all landscaping plans of new construction shall provide for at least one two (2") inch live oak to be located in the front of the structure.

19.2 The "Architectural Control Committee" shall have the authority to disapprove plans and specification for the construction of a residential building if it determines, in its sole discretion, that the quality of design and workmanship, including plumbing, sewage disposal and other features of a mechanical, as well as an aesthetic nature, are not in conformity with the quality and design of other residences in the Subdivision, and in such event, an enforceable violation of these restrictive and protective covenants will have occurred.

19.3 The "Architectural Control Committee" shall also have the authority to allow a substitution of materials, including used materials, for the materials required in other provision of these restrictive and protective covenants when, in the opinion of the "Architectural Control Committee", the required materials are no longer economically feasible, required material are of limited availability or the substituted materials

are of substantially equal or better quality than the require materials and are not detrimental to the general design and appearance of the Subdivision.

19.4 The "Architectural Control Committee" shall also have the authority to make exceptions to space and location requirements, including front set-back and side "Lot" requirements when it determines that such deviation will not be detrimental to the overall appearance of the Subdivision and it determines that such deviation does not adversely affect any adjoining property owner.

19.5 The "Architectural Control Committee" shall maintain a list of no more than twelve (12) approved contractors which have the approval of the "Architectural Control Committee" to construct or contract for construction of structures or improvements on any of the "Lots" subject to the terms of these restrictions. These contractors may be deleted or added to such lists as the "Architectural Control Committee" may, in its sole discretion, determine in the best interest of the property subject to these "Declarations".

19.6 So long as "Declarant's" or either of them are the owners of "Lots" within the restricted area including property covered by supplemental declarations, the "Architectural Control Committee" shall be designated by "Declarants". The initial "Architectural Control Committee" is composed of Drew C. LaBarbera, Robert J. Tate and Dave P. Bentsen, Jr. In the event a member of the "Architectural Control Committee" resigns or is otherwise unable to perform the duties of the "Architectural Control Committee" for any reason, the "Declarants" may name a successor member so long as they own property within the restricted area or if "Declarants" do not act in filling the vacancy, the vacancy may be filled by designation of the remaining members of the "Architectural Control Committee". If "Declarant" or neither of them no longer own property within the restricted area, the "Architectural Control Committee" shall be elected by the "Association" as provided for in the "By-laws" of the "Association" and in lieu of such election, vacancies may be filled by the remaining members of the "Architectural Control Committee".

19.7 The purpose of the "Architectural Control Committee" is to provide for the aesthetic quality of the overall subdivision. Any action on its part is to assure such quality and not to render an opinion as to structural soundness or feasibility of construction.

20. Severability.

Invalidation of any one of these covenants by judgement or Court shall in no way affect any of the other provisions, which shall remain in full force and effect.

21. Applicability.

These covenants shall be binding on anyone deriving title from or through the "Declarant", "Declarant's" successors or assigns, to any property subject hereto.

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22. Exemptions.

Specifically exempted from this section, are the Preston Country Club and Golf Course, and any maintenance, construction, or any other activities carried on in conjunction with the "Country Club", "Golf Course" or other related facilities.

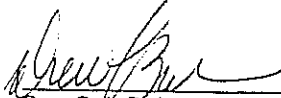
23. Availability of Restrictions.

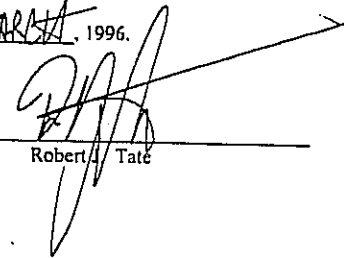
The "Association" shall, at a reasonable cost upon request, supply any lot "Owner" or "Member" with copies of these restrictions or any other restrictions applicable to the owner's property and any "By-laws and Articles of Incorporation" of the "Association".

24. Term.

These restrictions and covenants are to run with the land, and shall be binding on all parties, and all persons claiming under them, for a period of sixty (60) years from the date of the recording hereof in the office of the County Clerk of Grayson County, Texas; provided, however, that at any time, the then record owners of a majority of the lots covered hereby shall have the power, through a written instrument duly recorded in the office of the County Clerk of Grayson Count, Texas, to amend or modify any one or more of the restrictions or covenants contained herein, but no such amendment or modification shall affect any existing building. After the expiration of said period of sixty (60) years, said restrictions and covenants, as then existing shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the then owners of the majority of the lots covered hereby has been recorded, agreeing to change said restrictions or covenants in whole or in part. It shall not be necessary to copy these restrictions and covenants into any deed or conveyance, but, instead, by acceptance of a deed or conveyance to any portion of a lot or lots covered hereby, each purchaser shall be deemed to have consented to each and all of the provisions contained herein and to have accepted such deed or conveyance subject to each and all of the provisions hereof.

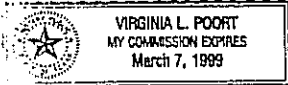
WITNESS MY HAND this 20th day of MARCH, 1996.

  
\_\_\_\_\_  
Drew C. LaBarbera

  
\_\_\_\_\_  
Robert J. Tate

STATE OF TEXAS  
COUNTY OF GRAYSON

BEFORE ME, the undersigned authority, a notary public in and for said county and State; on this day personally appeared Drew C. LaBarbera, of Preston Club, Inc., a Texas Corporation, and on behalf of said corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.



Virginia L. Poort  
Notary Public in and for the State of Texas

Lots 1

Block

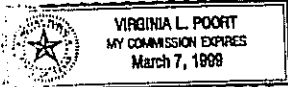
Lots 1

Block

Lots 1

STATE OF TEXAS  
COUNTY OF GRAYSON

BEFORE ME, the undersigned authority, a notary public in and for said county and State; on this day personally appeared Robert J. Tate, of Preston Club, Inc., a Texas Corporation, and on behalf of said corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.



Virginia L. Poort  
Notary Public in and for the State of Texas

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Exhibit "A"

Preston Club Property

Lots with Minimum of 1,600 Square Feet

Block 10:                      Lots: 1-5

Lots with Minimum of 1,800 Square Feet

Block 10:                      Lots: 6-12

Lots with Minimum of 2,000 Square Feet

FILED FOR RECORD

96 MAR 21 AM 9:52

SARA JACKSON  
COUNTY CLERK  
GRAYSON COUNTY, TX

FILED FOR RECORD AND RECORDED MARCH 21, 1996 AT, \_\_\_\_\_ M.  
SARA JACKSON, GRAYSON COUNTY CLERK, BY Linda Pierce DEPUTY